

SAN ANTONIO PLANNING COMMISSION AGENDA

February 13, 2008

2:00 P.M.

Murray H. Van Eman, *Chairman*

Cecilia Garcia, *Vice Chair*

Dr. Francine S. Romero, *Chair Pro-Tem*

Amelia Hartman

Jose R. Limon

John Friesenhahn

Ivy R. Taylor

Dr. Sherry Chao-Hrenek

Stephanie James

THE CLIFF MORTON DEVELOPMENT AND BUSINESS SERVICES CENTER, LOCATED AT 1901 SOUTH ALAMO STREET IS WHEELCHAIR-ACCESSIBLE. ACCESSIBLE PARKING IS LOCATED AT THE FRONT OF THE BUILDING. AUXILIARY AIDS AND SERVICES ARE AVAILABLE UPON REQUEST. INTERPRETERS FOR THE DEAF MUST BE REQUESTED AT LEAST 48 HOURS PRIOR TO THE MEETING BY CALLING (210) 207-7245 VOICE/TDD.

Please note that Citizens Comments are limited to three (3) minutes per person
CALL (210) 207-0121 FOR ADDITIONAL INFORMATION ON ANY AGENDA ITEM BELOW.

1. PRELIMINARY ITEMS

A. Work session, 1:30 P.M., Tobin Room

- Agenda items may be discussed (Development Services)
- Briefing on a City initiated Plan Amendment to the South Central San Antonio Community Plan (Presented by Andrea Gilles, Sr. Planner, Planning & Community Development Department).

2. 2:00 P.M.– Call to Order, Board Room

3. Roll Call

4. Citizens to be heard

5. PUBLIC HEARINGS

REPLATS W/ WRITTEN NOTIFICATION:

		Council District	Ferguson Index #
A. 070352	Ford Moreno Subdivision (Near the intersection of Stonykirck Road and Abe Lincoln)	7	548 A-5
B. 070536	Silicon Heights (South of Silicon Drive, west of Network Drive)	8	548 E-3

REPLATS:

- | | | | |
|------------------|---|----------|----------------|
| C. 070652 | Potranco Village – Phase 2 | 6 | 613 A-3 |
| | (On the north side of Potranco Road, east of FM Loop 1604) | | |
| D. 070736 | Fedex Ground - Westmoreland | 6 | 614 B-1 |
| | (Northeast corner of Culebra Road and Fairgrounds Parkway) | | |
| E. 070739 | Artisan at San Pedro | 5 | 616 C-8 |
| | (Near the northwest corner of IH 35 South and Pendelton Avenue) | | |

CONSENT AGENDA

NOTICE TO THE PUBLIC: All matters listed under "Consent Agenda" are considered by the Planning Commission to be routine, or have met all standards for development under state law (plats only), and will be enacted by one motion. There will be no separate discussion of these items unless any member of the Planning Commission requests that specific items be removed from the Consent Agenda and added to the Individual Consideration Agenda for discussion prior to the time the Planning Commission votes on the motion to adopt the Consent Agenda.

PUBLIC HEARINGS FOR ITEMS 6-10 HELD ABOVE:

- | | | | | |
|------------|---------------|---|----------|----------------|
| 6. | 070352 | Ford Moreno Subdivision | 7 | 548 A-5 |
| | | (Near the intersection of Stony Kirk Road and Abe Lincoln) | | |
| 7. | 070536 | Silicon Heights | 8 | 548 E-3 |
| | | (South of Silicon Drive, west of Network Drive) | | |
| 8. | 070652 | Potranco Village – Phase 2 | 6 | 613 A-3 |
| | | (On the north side of Potranco Road, east of FM Loop 1604) | | |
| 9. | 070736 | Fedex Ground - Westmoreland | 6 | 614 B-1 |
| | | (Northeast corner of Culebra Road and Fairgrounds Parkway) | | |
| 10. | 070739 | Artisan at San Pedro | 5 | 616 C-8 |
| | | (Near the northwest corner of IH 35 South and Pendelton Avenue) | | |

PLATS:

- | | | | | |
|------------|---------------|---|------------|----------------|
| 11. | 060283 | Redbird Ranch, Unit 2-D | OCL | 610 C-4 |
| | | (East of Potranco Road, at the intersection of Redbird Chase) | | |
| 12. | 060579 | Starr Business Park | 10 | 517 F-4 |
| | | (Northwest of the intersection of Jones Maltsberger and Redland Road) | | |

- | | | | | |
|-----|--------|--|-----|---------|
| 13. | 070238 | Encino Commons Development | 9 | 483 D-5 |
| | | (At the northeast corner of Encino Commons and US Highway 281) | | |
| 14. | 070412 | Biesenbach Subdivision | OCL | 654 E-4 |
| | | (South of U.S. Highway 87 and east of Beck Road) | | |
| 15. | 070572 | Woodlake Meadows Commercial | 2 | 585 E-4 |
| | | (At the extension of Mallard Meadow, west of F.M 78 – Seguin Road) | | |
| 16. | 070662 | Brenthurst Lane Extension Phase 2 PUD | 8 | 408 C-5 |
| | | (Extension of Brenthurst Lane northwest from Tejas Trail) | | |
| 17. | 080008 | Westwind Autozone | OCL | 577 E-2 |
| | | (South of Culebra Road, east of Alamo Parkway) | | |

DEFERRALS:

- | | | | | |
|-----|--------|---|----|---------|
| 18. | 080040 | Jubilee – York | 10 | 553 B-4 |
| | | (Southwest of the intersection of IH 35 North and Bomar Lane) | | |
| 19. | 080184 | Carreon Subdivision | 2 | 652 A-1 |
| | | (On the south side of Rigsby Avenue, west of Ancel) | | |

LAND TRANSACTIONS:

- | | | |
|-----|------------------|---|
| 20. | S.P. 1272 | Request to declare as surplus and sell a tract of City-owned real property within NCB 14319. (Department of Asset Management, by Oscar Serrano) |
|-----|------------------|---|

INDIVIDUAL CONSIDERATION

PLATS:

- | | | | |
|-----|--------|--|--------------|
| 21. | 080016 | West Pointe Gardens, Unit 1A | 4/OCL646 A-3 |
| | | (On the northwest corner of U.S. Highway 90 and Cagnon Road) | |

VARIANCES and APPEALS:

- | | | | |
|-----|-----------|---|-------------|
| 22. | 07-01-022 | Creamer | 8 546 D – 8 |
| | | (Near the intersection of Loop 1604 and Shaenfield) | |

LAND TRANSACTIONS:

- | | | | |
|-----|--|--|--|
| 23. | Briefing and consideration of a resolution authorizing the City to enter into a ground lease agreement with Haven for Hope for the purpose of operating a transformational human services campus for the homeless, which include conveying several warehouse | | |
|-----|--|--|--|

buildings to Haven for Hope. (Department of Community Initiatives, by Dennis J. Campa)

COMPREHENSIVE MASTER PLANS:

24. Public hearing and consideration of a resolution to recommend an amendment to update the land use element of the IH 10 East Corridor Perimeter Plan as a component of the City's Master Plan as it conforms to the approval criteria set forth in the Unified Development Code, §35-420, pertaining to "Comprehensive, Neighborhood, Community and Perimeter Plans" located in City Council District 2. (Planning and Community Development Department by Zenon F. Solis, Sr. Planner; Nina Nixon-Mendez, Planning Manager).
25. 08012 – Public hearing and consideration of a resolution amending the Land Use Plan contained in the North Central Community Plan, a component of the Master Plan of the City, by changing the use of approximately 0.2-acres located at 866 Lee Hall more specifically described by legal description NCB 9215 BLK 12 LOT 29 from Low Density Residential land use to Neighborhood Commercial land use. (Planning and Community Development Department by Tamara Palma, Planner; Nina Nixon-Mendez, Planning Manager).
26. 08013 – Public hearing and consideration of a resolution amending the Land Use Plan contained in the Downtown Neighborhood Plan, a component of the Master Plan of the City, by changing the use of approximately 0.3447 acres located at 1126 West Commerce more specifically described by legal description NCB 226 BLK 122 LOT 1, 2, 3, 4 from Residential land use to Mixed Use land use. (Planning and Community Development Department by Gary Edenburn, Planner; Nina Nixon-Mendez, Planning Manager).
27. 08014 – Public hearing and consideration of a resolution amending the Land Use Plan contained in the Downtown Neighborhood Plan, a component of the Master Plan of the City, by changing the use of approximately 0.1463 acres located at 1309 W. Houston more specifically described by legal description NCB 2267 BLK 5 LOT 3 from Low Density Residential land use to Mixed Use land use. (Planning and Community Development Department by Sidra Maldonado, Planner; Nina Nixon-Mendez, Planning Manager).

OTHER ITEMS:

28. Briefing and consideration of a request initiated by Councilmember Lourdes Galvan, District 5, requesting a zoning amendment to the Unified Development Code regarding Bail Bond businesses. (Development Services Department, by Chris Looney)
29. Briefing and consideration of a request initiated by Councilmember Sheila McNeil, District 2, requesting a zoning amendment to the Unified Development Code regarding Payday Loan Agencies and Check Cashing Facilities. (Development Services Department, by Chris Looney)

30. Briefing and consideration of a request initiated by Councilmember Diane Cibrian, District 8, requesting a zoning amendment to the Unified Development Code regarding the minimum acreage requirement for MPCD (Master Planned Community District) zoning districts. (Development Services Department, by Chris Looney)
31. Approval of the minutes for the January 23, 2008 Planning Commission meeting
32. Director's report
33. Questions and discussion
34. Executive Session: consultation on attorney-client matters (real estate, litigation, contracts, personnel, and security matters) as well as any of the above agenda items may be discussed
35. **ADJOURNMENT**

PLANNING COMMISSION
PUBLIC HEARING AND CONSIDERATION OF A REPLAT
WITH WRITTEN NOTIFICATION
AGENDA ITEM NO: 5A & 6 February 13, 2008

FORD/MORENO SUBDIVISION REPLAT
SUBDIVISION NAME

070352
PLAT #

COUNCIL DISTRICT: 7

FERGUSON MAP GRID: 548 A-5

OWNER: Timothy Ford

ENGINEER: Wilkie Surveying, by Frank R. Grant, P.E.

CASE MANAGER: Robert Lombrano, Planner (207-5014)

Date filed with Planning Commission: February 13, 2008

Location: Near the intersection of Stonykirk Road and Abe Lincoln.

Services Available: SAWS Water and On Site Sewer Facility

Zoning: RE Residential Estates District

Proposed Use: Residential

DISCUSSION:

The Planning Commission will hold a public hearing on the proposed replating of this property on February 13, 2008. Thirty four (34) notices were mailed to the adjacent property owners, as of this writing no written oppositions has been submitted.

STAFF RECOMMENDATION:

Approval.

PLANNING COMMISSION
PUBLIC HEARING AND CONSIDERATION OF A REPLAT AND
SUBDIVISION PLAT WITH WRITTEN NOTIFICATION

AGENDA ITEM NO: 5B & 7 February 13, 2008

SILICON HEIGHTS
SUBDIVISION NAME

MAJOR PLAT

070536
PLAT #

COUNCIL DISTRICT: 8

FERGUSON MAP GRID: 548 E-3

OWNER: R. L. Worth & Associates, Ltd., by Robert L. Worth, Jr.

ENGINEER: Vickrey & Associates, Inc., by Kara J. Heasley

CASE MANAGER: Donna L. Schueling, Planner (207-5016)

Date filed with Planning Commission: February 13, 2008

Location: South of Silicon Drive; west of Network Drive

Services Available: SAWS Water and Sewer

Zoning: C-2 NA Commercial, Nonalcoholic Sales

Proposed Use: Office Building

APPLICANT'S PROPOSAL:

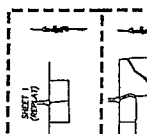
To plat **35.36** acres consisting of **9** non-single family lots.

DISCUSSION:

The Planning Commission will hold a public hearing on the proposed replatting of this property on February 13, 2008. Two notices were mailed to the adjacent property owners, as of this writing no written opposition has been submitted.

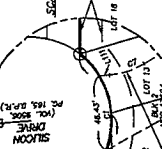
STAFF RECOMMENDATION:

Approval.

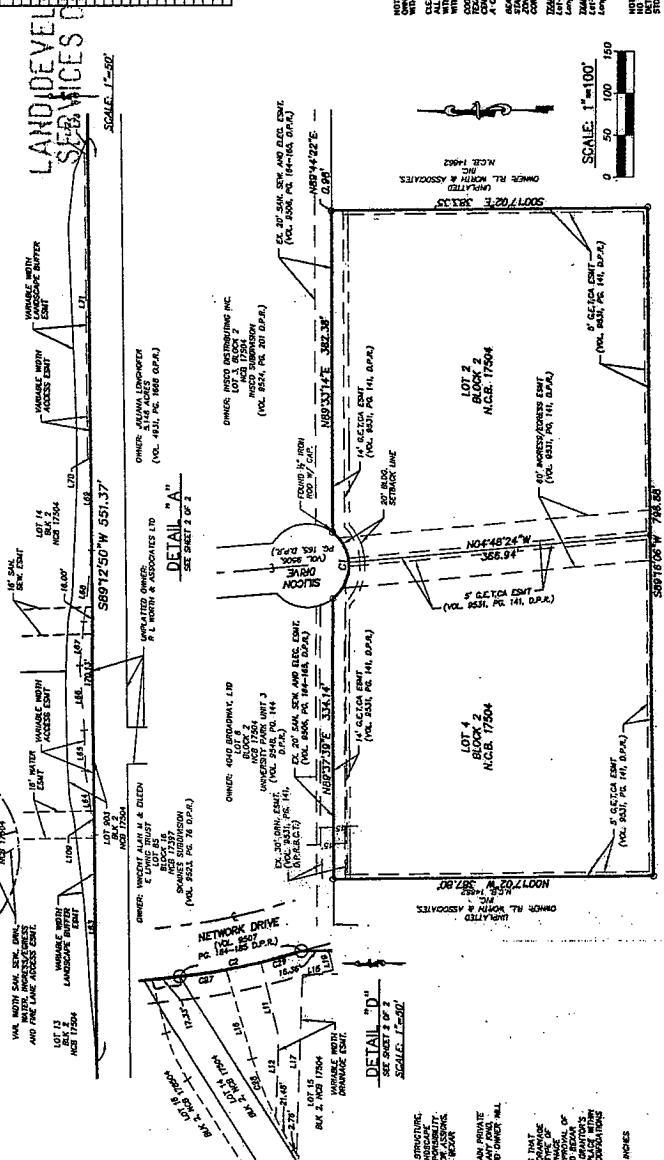


08 JAN 16 PM 3:42 INDEX MAP
NOT TO SCALE
SHEET 2

CASE	CLIMATE TABLE				DOSE
	WIND SPEED	WIND DIRECTION	TEMPERATURE	RELATIVE HUMIDITY	
1	10.0	100	74.1	22.1	21.0
2	10.0	100	74.1	22.1	21.0
3	10.0	100	74.1	22.1	21.0
4	10.0	100	74.1	22.1	21.0
5	10.0	100	74.1	22.1	21.0
6	10.0	100	74.1	22.1	21.0
7	10.0	100	74.1	22.1	21.0
8	10.0	100	74.1	22.1	21.0
9	10.0	100	74.1	22.1	21.0
10	10.0	100	74.1	22.1	21.0
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13	10.0	100	74.1	22.1	21.0
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**AREA BEING REPLATED WITH NOTIFICATION
PUBLIC HEARING WITH NOTIFICATION**

THE AREA BEING REPLATED WAS PREVIOUSLY PLATED IN A
PLAT KNOWN AS BETHEL ACRES SUBDIVISION, PLAT NO.
HORDZ, WHICH IS RECORDED IN VOLUME 9831, PAGE 141, IN
THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.

VICTORY & ASSOCIATES, INC.
CONSULTING ENGINEERS

OWNERS: RAL WOOD & ASSOCIATES,
OPERATED BY
N.C.E. 14662

THE AVE. BEING PLATTED WAS PREVIOUSLY SHOWN IN A PLAT SHOWING AS BEING ACROSS SHERRING PLATTED WAS 346222. WHICH WAS RECORDED IN VOLUME 311, PAGE 154, IN THE OFFICE OF THE COUNTY CLERK OF BOONE COUNTY, TEXAS.

IT IS HEREBY AGREED AND MUTUAL NOTIFICATION ON THE PROPOSED PLATTING OF A PLEASO BEING MADE IN THE OFFICE OF THE COUNTY CLERK OF BOONE COUNTY, TEXAS.

IN WITNESS WHEREOF, THE PARTIES HAVE HEREUNTO SIGNED THEIR NAMES AND AFFIXED THEIR SIGNS, THIS 15TH DAY OF FEBRUARY, 1964.

THE OWNERS OF THE LAND SHOWN ON THIS REPEAT CLOSING INSTRUMENT, HEREBY STATE THAT THIS PLAT DOES NOT AVOID OR REMOVE ANY CONSTRAINTS OR RESTRICTIONS.

Robert E. Winters
OWNER

ONE DEVELOPER,
R. L. WORTH & ASSOCIATES, LTD.
1000 WEST 10TH STREET
SAN ANTONIO, TEXAS 78205

OWNER'S STATE AUTHORIZED AGENT

**REPLAT AND SUBDIVISION PLAT ESTABLISHING
SLICONS - HEIGHTS**

[illegible]

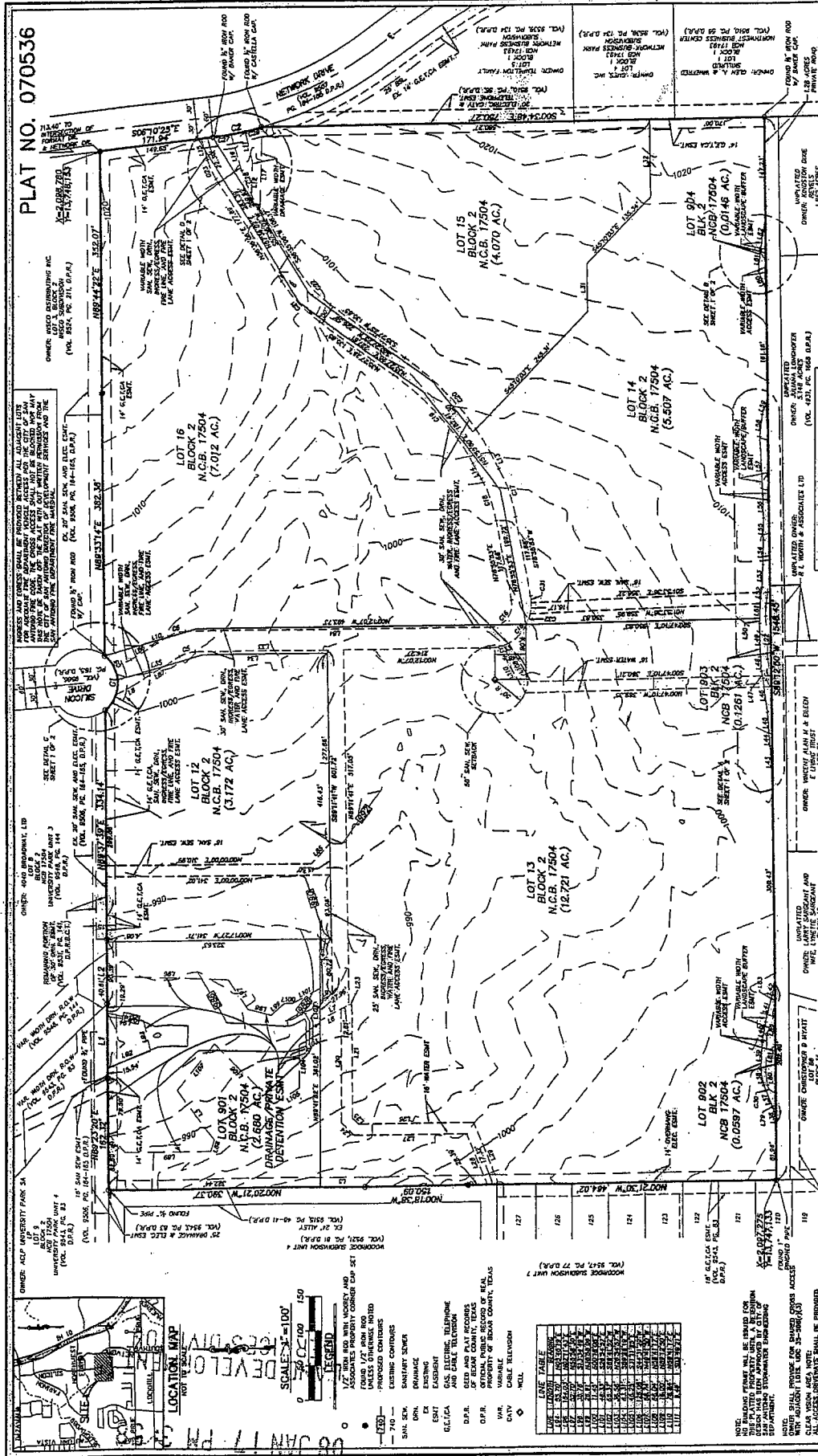
COUNTY CLERK, BEAR COUNTY, TEXAS
 DEPUTY _____
 THAT THE PAGE WAS FILED FOR RECORD IN MY OFFICE, ON _____ DAY OF _____
 A.D. _____ AT _____ IN AND ONLY RECORDED THE _____ DAY OF _____
 _____ IN THE RECORDS OF _____
 OF SAID COUNTY, IN BOOK VOLUME _____ ON PAGE _____
 IN TESTAMENT WITNESSED, WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE, THIS
 DAY OF _____
 A.D. _____
 COUNTY CLERK, BEAR COUNTY, TEXAS

THIS DAY OF _____ SLACK HEIGHTS _____
 THIS PLAN IS AND CONSIDERED TO BE THE PLAN OF THE CITY OF SAN
 ANTONIO, TEXAS AND IS HEREBY APPROVED BY SAID COMMISSION.
 DATED THE _____ DAY OF _____ A.D. _____
 BY _____ CLERK _____
 BY _____ SECRETARY _____

STATE OF TEXAS
COUNTY OF DALLAS
I, _____, Clerk of said Court, do hereby certify that the above is a true and correct copy of the original as the same appears on file in my office.
WITNESS MY HAND AND SEAL OF OFFICE, AT DALLAS, TEXAS, this _____ day of _____, 19____.

Clerk of Court

NOTARY & ASSOCIATES, INC.
SUITE 1000, 1000 MAIN STREET, DALLAS, TEXAS 75202
TELEPHONE 768-1111



NOTES:

- THE CITY OF SAN ANTONIO HAS REVIEWED THIS PLAT AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT. THE CITY'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
- THE PLAT IS SUBJECT TO THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT. THE CITY'S ZONING ORDINANCES MAY BE AMENDED OR REPEALED AT ANY TIME, AND THE CITY'S SUBDIVISION MAP ACT MAY BE AMENDED OR REPEALED AT ANY TIME. THE PLAT IS SUBJECT TO THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT.
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OWNER: VICKERY & ASSOCIATES, INC.
DATE: 1/17/08
BY: [Signature]

REPLAT AND SUBDIVISION PLAT ESTABLISHING SILICON HEIGHTS

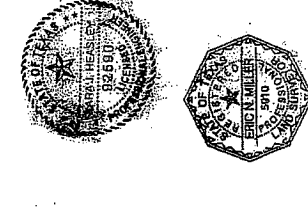
OWNER: VICKERY & ASSOCIATES, INC.
DATE: 1/17/08
BY: [Signature]

NOTES:

- THE PLAT IS SUBJECT TO THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT. THE CITY'S ZONING ORDINANCES MAY BE AMENDED OR REPEALED AT ANY TIME, AND THE CITY'S SUBDIVISION MAP ACT MAY BE AMENDED OR REPEALED AT ANY TIME. THE PLAT IS SUBJECT TO THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT.
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OWNER: VICKERY & ASSOCIATES, INC.
DATE: 1/17/08
BY: [Signature]

RECEIVED



**PLANNING COMMISSION
PUBLIC HEARING AND CONSIDERATION OF A REPLAT**

AGENDA ITEM NO: 5C & R February 13, 2008

POTRANCO VILLAGE – PHASE 2
SUBDIVISION NAME

MAJOR PLAT

070652
PLAT #

COUNCIL DISTRICT: 6

FERGUSON MAP GRID: 613 A-3

OWNER: Potranco Retail, LTD., by H. Wade McGinnis

ENGINEER: Pape-Dawson Engineers, Inc., by Dennis R. Rion

CASE MANAGER: Luz M. Gonzales, Planner (207-7898)

Date filed with Planning Commission: February 13, 2008

Location: On the north side of Potranco Road, east of F.M. Loop 1604

Services Available: SAWS Water and Sewer

Zoning: C-3 General Commercial District

Proposed Use: Multi-Use

Major Thoroughfare: Potranco Road is a primary arterial, Type A, minimum R.O.W. 120 feet. F.M. Loop 1604 is a freeway.

APPLICANT'S PROPOSAL:

To replat **27.96** acres consisting of **4** non-single family lots.

STAFF RECOMMENDATION:

Approval.

**PLANNING COMMISSION
PUBLIC HEARING AND CONSIDERATION OF A REPLAT AND
SUBDIVISION PLAT**

AGENDA ITEM NO: 5029 February 13, 2008

FEDEX GROUND –
WESTMORELAND
SUBDIVISION NAME

MAJOR PLAT

070736
PLAT #

COUNCIL DISTRICT: 6

FERGUSON MAP GRID: 614 B-1

OWNER: The Westmoreland Company, Inc., by Jada R. Leo, President

ENGINEER: Pape-Dawson Engineers, Inc., by Brice Moczygemba, P.E.

CASE MANAGER: Rebecca Paskos, Planner (207-0042)

Date filed with Planning Commission: February 13, 2008

Location: Northeast corner of Culebra Road and Fairgrounds Parkway

Services Available: SAWS Water and Sewer

Zoning: I1 General Industrial
C3 General Commercial

Plat is in accordance with:

MDP 149B, Alamo Downs Business Park, accepted on February 14, 1997.

Proposed Use: Freight

Major Thoroughfare: Culebra Road is a secondary arterial, Type A, minimum
R.O.W. 86 feet.

APPLICANT'S PROPOSAL:

To plat 14.73 acres consisting of 1 non-single family lot.

STAFF RECOMMENDATION:

Approval.

PLANNING COMMISSION
PUBLIC HEARING AND CONSIDERATION OF A REPLAT AND
SUBDIVISION PLAT

AGENDA ITEM NO: 5E & 1D February 13, 2008

ARTISAN AT SAN PEDRO
SUBDIVISION NAME

MAJOR PLAT

070739
PLAT #

COUNCIL DISTRICT: 5

FERGUSON MAP GRID: 616 C-8

OWNER: ARCD San Marcos, LTD., by Ryan Wilson

ENGINEER: Kimley-Horn and Associates, Inc., by Stephen Gose, P.E.

CASE MANAGER: Rebecca Paskos, Planner (207-0042)

Date filed with Planning Commission: February 13, 2008

Location: Near the northwest corner of IH 35 South and Pendelton Avenue

Services Available: SAWS Water and Sewer

Zoning: IDZ Infill Development Zone
MF-33 Multi-Family
C-2 Commercial

Proposed Use: Multi-Family Residential

APPLICANT'S PROPOSAL:

To plat **10.621** acres consisting of **1** non single family lot.

STAFF RECOMMENDATION:

Approval

[illegible]

8) BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM (SOUTH CENTRAL ZONE, NAD83).

10) DIMENSIONS SHOWN ARE SURFACE. SCALE FACTOR USED IS 1,000/1601204. THE ROTATION CSD TO PLAN IS 05°10'00".

TAOBT NOTES:

1) FOR RESIDENTIAL DEVELOPMENT DIRECTLY ADJACENT TO STATE RIGHT-OF-WAY, THE DEVELOPER SHALL BE RESPONSIBLE FOR ADEQUATE SETBACK AND/OR SOUND ABATEMENT MEASURES FOR FUTURE SOUND MITIGATION.

2) OWNER/DEVELOPER IS RESPONSIBLE FOR PREVENTING ANY ADVERSE IMPACT TO THE EXISTING DRAINAGE SYSTEM WITHIN THE HIGHWAY RIGHT OF WAY.

4) IF SIDEWALKS ARE REQUIRED BY APPROPRIATE CITY ORDINANCE A SIDEWALK PERMIT MUST BE APPROVED BY TIDOT, PRIOR TO CONSTRUCTION WITHIN STATE RIGHT-OF-WAY. LOCATIONS OF SIDEWALKS WITHIN STATE RIGHT-OF-WAY SHALL BE AS DIRECTED BY TIDOT.

How did you find your current employer?	Percent of respondents
Internet	95
Other	5

THE AREA BEING REPLANTED WAS PREVIOUSLY PLANTED ON PLAT GENERAL
UNRECORDED. THE REPLANT WAS FIRST RECORDED IN VOLUME 8334, PAGE
190, BEAR COUNTY PLAT AND NEED RECORD.

I (MC), THE OWNERS OF THE PROPERTY SHOWN ON THE REPLAT HEDLEY
CERTIFY THAT THIS REPLAT DOES NOT AMEND OR REMOVE ANY COVENANTS OR
RESERVATIONS. I (MC) FURTHER CERTIFY THAT THE AREA OF THIS REPLAT WAS

DESIGNATED OR RESERVED FOR OTHER THAN SINGLE OR DUPLEX FAMILY
RESIDENTIAL USE BY NOTATION ON THE LAST LITALLY RECORDED PLAT OR IN
THE LEGALLY RECORDED RESTRICTIONS APPLICABLE TO THE PLAT.

OTHER _____

AMERICAN FARM IMPLEMENTS, CO., INC. _____

INDUSTRY PUBLIC IN AND FOR THE STATE OF TEXAS
MY COMMISSION EXPIRES _____ DAY OF _____

THIS PLAN OF ATLANTA, GEORGIA HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO, TEXAS AND A RESOLUTION APPROVED THE FOLLOWING:

DATED THIS _____ DAY OF _____ A.D. 20 ____ .
 THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO, TEXAS.

STATE OF TEXAS
COUNTY OF BEXAR

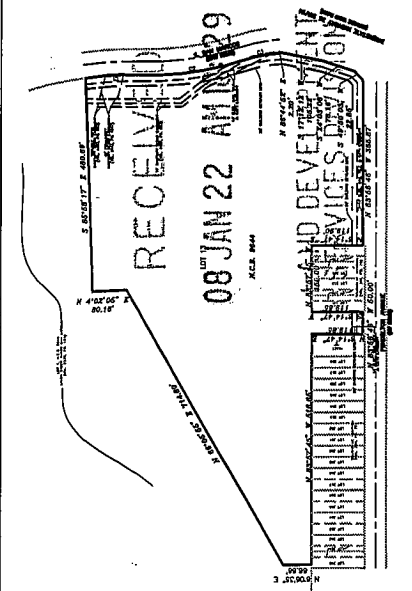
By _____
CLERK

SECRETARY

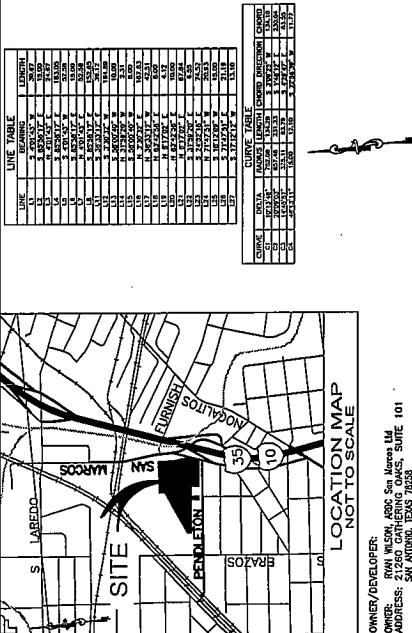
_____ COUNTY CLERK OF BEAR COUNTY, DO
HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT WAS FILED FOR RECORD IN MY OFFICE, ON THE
_____ DAY OF _____ A.D. _____ AT _____ H. AND DULY RECORDED THE
_____ DAY OF _____ A.D. _____ AT _____ H. IN THE RECORDS OF BEED
AND FLAT OF SAID COUNTY, IN BOOK VOLUME _____ ON PAGE _____.

IN WITNESS WHEREOF, I HAVE SUBSCRIBED AND AFFIRMED, AS ABOVE, AT _____

DATE OF _____, A.D. _____
COUNTY CLERK, BEAR COUNTY, TEXAS
BY: _____, COUNTY CLERK



THE ARE BEING REPLATTED WAS PREVIOUSLY PLATTED ON PLAT "CENTRAL MAINTENANCE FACILITY FOR SAHA" AS RECORDED IN VOLUME 9539



STATE OF TEXAS
COUNTY OF DEAR

PHASE 210-691-2223

THE OWNER OF THE LAND SHOWN ON THIS PLAN IN PERSON OR THROUGH A duly authorized agent, HEREBY CERTIFIES THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT AND THAT THE LAND SHOWN ON THIS PLAN IS NOT SUBJECT TO ANY OTHER EASEMENT, ENCUMBRANCE, OR INTEREST OF ANY KIND, AND THAT THE LAND SHOWN ON THIS PLAN IS NOT SUBJECT TO ANY OTHER EASEMENT, ENCUMBRANCE, OR INTEREST OF ANY KIND, AND THAT THE LAND SHOWN ON THIS PLAN IS NOT SUBJECT TO ANY OTHER EASEMENT, ENCUMBRANCE, OR INTEREST OF ANY KIND.

(IN FEET)

200 0 100 200

200 0 100 200

1 inch = 200 ft.

DAILY OBSERVED DATA
DATE

IMPOSED NO CONSIDERATION HEREIN EXPRESSED.

STATE OF TEXAS
COUNTY OF BROWN

BEFORE ME, THE UNDERSIGNED AUTHORITY ON HIS OWN PERSONALLY PROVIDED INFORMATION, AND WITHOUT ANY OTHER FACTS OR CIRCUMSTANCES BEING
SUBMITTED TO ME, I HAVE BEEN DULY ADVISED THAT THE ABOVE NAMED
PERSONAGE IS THE FOREGOING TESTIMONY, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE
SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN
STATED.

STATE OF TEXAS
COUNTY OF BEAR
I, _____, Clerk of said County, do hereby certify that _____ is duly qualified as a Justice of the Peace under an oath and seal of office this _____ day of _____, 20____.

COUNTY OF SEAR
 HEREBY CERTIFY THAT THE ABOVE PLAT CONTAINS TO THE HIGHEST DEGREE SET
 OUT IN THE FOREGOING, THE TRUE AND CORRECT LOCATION OF THE
 ACTUAL SURVEY MADE ON THE GROUND BY _____
 ENGINEER & ASSOCIATES, INC.
 ENGINEER IN SUPERVISION

STATE OF TEXAS
COUNTY OF BEXAR

I HEREBY CERTIFY THAT FRODO ENGINEERING CONSULTANTS HAS BEEN GIVEN THIS PLAN IN THE COUNTY OF BEXAR FOR RECORDING AND THAT IT IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS PREPARED BY SAID ENGINEER.

REGISTERED PROFESSIONAL LAND SURVEYOR

N. 60° 05' 37" E. 7149.85'

REGISTERED PROFESSIONAL ENGINEER

[illegible]

DETAIL "A"
SCALE: 1" = 60'

16.22

15' SANITARY SEWER EASEMENT

15'

ART

ENGINEERS & ARCHT. INC.
3301 EIGHTH AVE. S.W. MILWAUKEE, WIS. 53207

SEPTEMBER 2007
SHEET 1 OF 1
JOB NUMBER: 5-200719799

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: // February 13, 2008

REDBIRD RANCH, UNIT 2-D
SUBDIVISION NAME

MAJOR PLAT

060283
PLAT #

COUNCIL DISTRICT: Outside San Antonio City Limits

FERGUSON MAP GRID: 610 C-4

OWNER: Continental Homes of Texas, L.P., by Timothy D. Pruski

ENGINEER: Pape-Dawson Engineers, Inc., by Dennis Rion, P.E.

CASE MANAGER: Luz Gonzales, Planner (208-7898)

Date filed with Planning Commission: January 29, 2008

Location: East of F.M. Hwy. 1957 (Potranco Rd.) at the intersection of Redbird Chase

Services Available: SAWS Sewer and Bexar Metropolitan Water District

Zoning: Outside San Antonio City Limits

Plat is in accordance with:

MDP 842-A Redbird Ranch was accepted on January 25, 2008.

Proposed Use: Single Family Residential

Major Thoroughfare: F.M. Hwy. 1957 (Potranco Rd.) is a primary arterial, Type A, minimum R.O.W. 120 feet.

APPLICANT'S PROPOSAL:

To plat **22.84** acres consisting of **89** single-family lots, 1 non-single family lot and **2,505** linear feet of public streets.

STAFF RECOMMENDATION:

Approval.

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 12 February 13, 2008

STARR BUSINESS PARK
SUBDIVISION NAME

MAJOR PLAT

060579
PLAT #

COUNCIL DISTRICT: 10

FERGUSON MAP GRID: 517 F-4

OWNER: Guerra & Reyna Investments, LP, by John A. Guerra

ENGINEER: Jaster-Quintanilla SA, LLP, by Erlath W. Zuehl, III

CASE MANAGER: Jasmin Moore, Planner (207-0142)

Date filed with Planning Commission: January 22, 2008

Location: Northwest of the intersection of Jones Maltsberger and Redland Road

Services Available: SAWS Water and Sewer

Zoning: C-2 Commercial District
ERZD Edwards Recharge Zone District

Proposed Use: Commercial

Major Thoroughfare: Redland Road is a secondary arterial, Type A, minimum R.O.W. 86 feet.

APPLICANT'S PROPOSAL:

To plat **4.984** acres consisting of **2** non-single family lots.

DISCUSSION:

This plat lies within the Edwards Recharge Zone District and has been reviewed by the Aquifer Protection and Evaluation Section of the San Antonio Water Systems, as indicated in the attached report. No significant recharge features were observed on this site, with the exception of an

existing Edwards water well. This plat meets all of the requirements for development over the recharge zone.

STAFF RECOMMENDATION:

Approval



September 14, 2007

Mr. Thomas G. Haberle
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

Re: File No. 1649 - Water Pollution Abatement Plan Review for **Starr Business Park** located southeast of the intersection of Highway 281 North and Redland Road

Dear Mr. Haberle:

The San Antonio Water System (SAWS) Aquifer Protection and Evaluation Section of the Resource Protection Division has completed its review of the application submitted for the above referenced Water Pollution Abatement Plan (WPAP) received on September 4, 2007. This application is for the proposed development of a commercial office complex. The site covers 2.988 acres with a proposed impervious cover of 1.658 acres (55.49%). The subject site was previously occupied by a single family residential structure.

TECHNICAL REVIEW

SAWS Aquifer Protection & Evaluation staff conducted a site investigation, and no significant or sensitive geologic features within the subject site, with the exception of an existing Edwards water well. This water well was noted in the geologic assessment, and was observed to be intact. We are in general agreement with the geologic assessment in the WPAP. Based on our general review of the basin design, we noted no apparent deficiencies.

Based on the site evaluation of the property and the WPAP information submitted by the engineer, SAWS staff recommends **approval** of this application provided that the applicant complies with the applicable requirements of the Aquifer Recharge Zone and Watershed Protection Ordinance No. 81491. In accordance with Ordinance No. 81491, an Aquifer Protection Plan for all Category 2 and 3 properties is required to be submitted to and approved by the Aquifer Protection & Evaluation Section of the San Antonio Water System.

ENVIRONMENTAL RECOMMENDATIONS

The following recommendations which address the environmental concerns raised by the construction of the proposed project are:

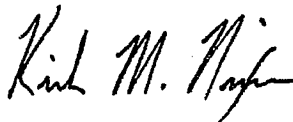
1. The City of San Antonio shall inspect all pending construction of sewer mains and service laterals for proper construction according to State and City Regulations and Codes.
2. The storage, handling, use and disposal of hazardous materials within this development shall be consistent with the labeling of those materials, and applicable regulations. Failure to comply with the label warnings may constitute a violation of Federal law.
3. Landscaped areas should be sensitive to minimizing water needs (i.e. use of native plants) and that a minimal amount of pesticides, herbicides, or fertilizers should be used.

Mr. Thomas G. Haberle
Starr Business Park
Page 2

4. If any solution openings, caves, sinkholes, or wells are discovered on the property during construction or blasting, the owner should notify the SAWS Aquifer Protection and Evaluation Section at (210) 233-3520.
5. The Ground Water Resource Protection Section should be notified at 233-3523 upon discovery and plugging of wells. Wells that are no longer in use or abandoned shall be properly plugged in accordance with SAWS water well plugging procedures.
6. Prior to the start of the basin construction, the owner should notify the SAWS Aquifer Protection and Evaluation Section at (210) 233-3520 to schedule a site inspection.
7. After basin construction is complete and prior to the start of business, the owner should notify the SAWS Aquifer Protection and Evaluation Section at (210) 233-3520 to schedule a site inspection. Additionally, we recommend a maintenance plan and schedule be developed and submitted to SAWS Aquifer Protection and Evaluation Section.
8. If the basin fails to drain properly, the owner should notify the Construction Section of the Resource Compliance Division at (210) 233-3564 prior to any discharge of water.
9. If at any time the ownership of the property changes, the seller must inform the buyer of all requirements for maintenance of the Basin. A signed basin maintenance plan and schedule agreement, from the new owner, must be submitted to the Resource Protection Division of SAWS.

If you have any questions or require additional information, please contact the SAWS Aquifer Protection and Evaluation Section at (210) 233-3520.

Sincerely,



Kirk M. Nixon, Manager
Resource Protection Division

KMN:BVK

cc: Erlath W. Zuehl, P.E., Jaster-Quintanilla San Antonio, LLP.
Ms. Robin Tremallo, Edwards Aquifer Authority
John A. Guerra, Guerra & Reyna Investments, L.P.

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 13 February 13, 2008

ENCINO COMMONS DEVELOPMENT
SUBDIVISION NAME

MAJOR PLAT

070238

PLAT #

COUNCIL DISTRICT: 9

FERGUSON MAP GRID: 483 D-5

OWNER: Common Development Group 06, LTD, by J. L. Guerra, Jr.

ENGINEER: M. W. Cude Engineers, LLC, by Raymond Tarin, Jr.

CASE MANAGER: Donna L. Schueling, Planner (207-5016)

Date filed with Planning Commission: January 29, 2008

Location: At the northeast corner of Encino Commons and U.S. Hwy 281

Services Available: SAWS Water and Sewer

Zoning: C-3 General Commercial District
ERZD Edward Recharge Zone District

Plat is in accordance with:

MDP #268C, Encino Park was accepted on October 30, 2000.

Proposed Use: Mixed Use Commercial

Major Thoroughfare: U. S. Hwy 281 N is a freeway.

APPLICANT'S PROPOSAL:

To plat **23.531** acres consisting of **6** non-single family lots.

DISCUSSION:

This plat lies within the Edwards Recharge Zone District and has been reviewed by the Aquifer Protection and Evaluation Section of the San Antonio Water Systems, as indicated in the attached report. No significant recharge features were observed on this site. This plat meets all of the requirements for development over the recharge zone.

STAFF RECOMMENDATION:

Approval.



January 11, 2008

Raymond Tarin, Jr., V. P.
M. W. Cude Engineers, Inc.
10325 Bandera Road
San Antonio, Texas 78250-0000

RE: File No. 0801001 - Request for review of **Encino Commons Development, Plat No. 070238**
located on the eastside of 281 north and Encino Commons.

Dear Mr. Tarin:

On January 4, 2008, the Aquifer Protection & Evaluation Section of the Resource Protection Division of the San Antonio Water System (SAWS) received a request to review a plat for the property referenced above. Staff reviewed the documentation submitted and conducted field observations of the referenced plat to ensure compliance with applicable requirements for development over the Edwards Aquifer Recharge Zone (EARZ). The land use of the subject plat is for commercial and consists of approximately 23.530 acres located entirely within the EARZ. No sensitive features were observed. The property is not within the 100-year floodplain preservation area.

The proposed development is a **Category 1** property under the provisions of Aquifer Protection Ordinance No. 81491-File No. 1666. Should any documentation become available that would alter this Category designation, the documentation may be submitted to the San Antonio Water System for review and possible Category redesignation.

At the time of this request it is unknown if a Water Pollution Abatement Plan (WPAP) or an Organized Sewage Collection System (SCS) Plan have been submitted to or approved by the Texas Commission on Environmental Quality (TCEQ). **No building permit will be released until a Water Pollution Abatement Plan has been submitted to and approved by TCEQ.**

After careful review of the project and the documentation submitted by the applicant, the Aquifer Protection & Evaluation Section of the Resource Protection Division of the San Antonio Water System, recommends the approval of Encino Commons Development, Plat No. 070238.

If you have any questions regarding this matter, please contact the Aquifer Protection & Evaluation Section at (210) 233-3520.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kirk M. Nixon'.

Kirk M. Nixon
Manager
Resource Protection Division

2008 JAN 28 PM 4:25
DEVELOPMENT SERVICES
RECEIVED

KMN/GDJ:LRD

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 14 February 13, 2008

BIESENBACH SUBDIVISION
SUBDIVISION NAME

MAJOR PLAT

070412
PLAT #

COUNCIL DISTRICT: Outside San Antonio City Limits

FERGUSON MAP GRID: 654 E-4

OWNER: David Biesenbach Inc., by David Biesenbach

ENGINEER: Alamo Consulting Engineering & Surveying, Inc., by Paul A. Schroeder, P.E.

CASE MANAGER: Robert L. Lombrano, Planner (207-5014)

Date filed with Planning Commission: January 28, 2008

Location: South of U.S. Highway 87 and east of Beck Rd.

Services Available: East Central Special Utility District Water and On Site Sewer Facility.

Zoning: Outside San Antonio City Limits

Proposed Use: Commercial

APPLICANT'S PROPOSAL:

To plat **3.60** acres consisting of **1** non-single family lot.

STAFF RECOMMENDATION:

Approval

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 15 February 13, 2008

WOODLAKE MEADOWS COMMERCIAL MAJOR PLAT 070572
SUBDIVISION NAME PLAT #

COUNCIL DISTRICT: 2

FERGUSON MAP GRID: 585 E-4

OWNER: DFGG of Texas, LTD by A. Bradford Galo

ENGINEER: TCB, Inc, by Heather E.S. O'Gorman

CASE MANAGER: Luz M. Gonzales, Planner (207-7898)

Date filed with Planning Commission: January 28, 2008

Location: At the extension of Mallard Meadow, west of F.M. 78-Seguin Road

Services Available: SAWS Water and San Antonio River Authority Sewer

Zoning: MF 33 Multi-Family District

It is noted that the applicant has been made aware that plat approval will not preempt existing zoning restrictions.

Proposed Use: Commercial

Major Thoroughfare: F.M. 78-Seguin Road is a primary arterial, Type A, minimum R.O.W. 120 feet.

APPLICANT'S PROPOSAL:

To plat 4.366 acres consisting of 2 non-single family lots.

STAFF RECOMMENDATION:

Approval

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 16 February 13, 2008

BRENTHURST LANE
EXTENSION PHASE 2 PUD
SUBDIVISION NAME

MAJOR PLAT

070662
PLAT #

COUNCIL DISTRICT: 8

FERGUSON MAP GRID: 408 C-5

OWNER: Intco Development of Texas, Inc., by Larry W. Slayter

ENGINEER: Pape-Dawson Engineers, Inc., by Thomas M. Carter, P.E.

CASE MANAGER: Elizabeth Adams, Planner (207-7912)

Date filed with Planning Commission: January 31, 2008

Location: Extension of Brenthurst Lane northwest from Tejas Trail

Services Available: SAWS Water and Leon Springs Utility Company Sewer

Zoning: R-6 S Residential Single-Family District, Specific Use for a Golf
Course
PUD Planned Unit Development

Plat is in accordance with:

MDP 026-07, Howell MDP at the Dominion was accepted on October 31, 2007.

PUD 09-003, Brenthurst Lane Extension Phase 2 was approved on January 23, 2008.

Proposed Use: Private Right of Way

APPLICANT'S PROPOSAL:

To plat **5.315** acres consisting of **5** non-single family lots and **4,300** linear feet of private streets.

STAFF RECOMMENDATION:

Approval.

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 17 February 13, 2008

WESTWINDS AUTOZONE
SUBDIVISION NAME

MAJOR PLAT

080008
PLAT #

COUNCIL DISTRICT: Outside San Antonio City Limits

FERGUSON MAP GRID: 577 E-2

OWNER: James Trautmann

ENGINEER: Pape-Dawson Engineers, Inc., by Alfonso Chua

CASE MANAGER: Donna L. Schueling, Planner (207-5016)

Date filed with Planning Commission: January 22, 2008

Location: South of Culebra Road, east of Alamo Parkway

Services Available: SAWS Water and Sewer

Zoning: Outside San Antonio City Limits

Plat is in accordance with:

MDP 808E, Westwinds was accepted on September 11, 2006.

Proposed Use: Autozone Store

Major Thoroughfare: Culebra is a primary arterial, Type A, minimum R.O.W.
120 feet.

APPLICANT'S PROPOSAL:

To plat **0.97** acres consisting of **1** non-single family lot.

STAFF RECOMMENDATION:

Approval.

PLANNING COMMISSION

PLAT DEFERRAL

AGENDA ITEM NO: 18 February 13, 2008

JUBILEE- YORK
SUBDIVISION NAME

080040
PLAT #

COUNCIL DISTRICT: 10

FERGUSON MAP GRID: 553 B-4

OWNER: Jubilee Motor by Albert Schoelman

CONSULTANT: Jacobs Carter Burgess by Billy Classen, P.E.

CASE MANAGER: Rebecca Paskos, Planner (207-0042)

Location: Southwest of the intersection of IH 35 North and Bomar Lane.

Zoning: I1 General industrial
IH-1 National Highway System High Priority Corridor District

Proposed Use: Car rental and sales

APPLICANT'S PROPOSAL:

The plat deferral is for 1.998 acres consisting of 1 non-single family lot.

APPLICANTS REQUEST:

The applicant is requesting temporary utility service and building permits prior to plat approval and recordation. The applicant's justification is in the attached letter.

STAFF RECOMMENDATION:

The Director of Development Services recommends approval of the plat deferral with the following conditions:

1. No permanent utility service shall be issued until the plat is approved and recorded in the office of the County Clerk.

2. The plat is formally filed within 180 days of this action and considered by the Planning Commission within 30 days of a formal plat filing.
3. If no utility service is issued within 180 days, plat-filing fees will not be refunded and the plat deferral request shall become null and void.
4. The proposed plat is not subject to or contingent upon a change in zoning classification, therefore, a certificate of occupancy shall be issued only for those uses authorized by the zoning on the property as provided in Table 31102 of the UDC.

RECEIVED

08 JAN 17 PM 5:26

January 17, 2008

Ms. Rebecca Paskos
City of San Antonio – Development Services Department
1901 South Alamo
San Antonio, Texas 78204

LAND DEVELOPMENT
SERVICES DIVISION

Re: Enterprise Rent-a-Car
Plat Deferral

Ms. Paskos:

Please accept this letter of request for a plat deferral on the Jubilee York Subdivision. We (Jacobs Carter Burgess, formerly Carter Burgess) have been retained by Enterprise Rent-A-Car and Jubille Motors to process the required plat and prepare the necessary documentation for the deferral. Additionally, Jacobs Carter Burgess will also prepare the normal plat package once the deferral has been approved.

This plat deferral is necessary for opening the car rental and sales facility planned for this location. If this deferral is not approved then the future buyer will not be able to purchase the property and start construction in order to meet their sales goal for the upcoming year.

We appreciate your time and consideration on the project. Please do not hesitate to contact our office should you have any questions.

Sincerely,



Billy Classen, P.E.

Associate

PLANNING COMMISSION

PLAT DEFERRAL

AGENDA ITEM NO: 19 February 13, 2008

CARREON SUBDIVISION
SUBDIVISION NAME:

080184
PLAT #:

COUNCIL DISTRICT: 2

FERGUSON MAP GRID: 652 A-1

OWNER: Antonio Carreon

ENGINEER: Terry Engineering, by Max Terry

CASE MANAGER: Elizabeth Adams, Planner (207-7912)

Location: On the south side of Rigsby Avenue, west of Ancel

Zoning: R-4 Residential Single-Family

Proposed use: Residential

APPLICANT'S PROPOSAL:

The plat deferral is for 2 single family lots consisting of 2.721 acres.

APPLICANT'S REQUEST:

The applicant is requesting temporary utility service and building permits prior to plat approval and recordation. The applicant's justification is in the attached letter.

STAFF RECOMMENDATION:

The Director of Development Services recommends approval of the plat deferral with the following conditions:

1. No permanent utility service or certificate of occupancy shall be issued until the plat is approved and recorded in the office of the County Clerk.
2. The plat is formally filed within 180 days of this action and considered for approval within 30 days of a formal plat filing.

3. If no utility service or certificate of occupancy is issued within 180 days, plat filing fees will not be refunded and the plat deferral requests shall become null and void.

January 17, 2008 RECEIVED
08 JAN 23 AM 10:34

LAND DEVELOPMENT
SERVICES DIVISION

City of San Antonio
1901 S. Alamo St.
San Antonio, Tx 78283-3966

To Whom It May Concern:

We have retained Terry Engineeringt to prepare the required information for the plat at 2018 Rigsby Avenue. We are requesting a deferral on this plat to enable us to pull permits permitting us to make necessary repairs to an existing structure. Sewer and water already exist at this property therefore will not be needed in the replat.

The modifications to the existing structure are needed to provide suitable living conditions for two (2) minor children who will be moving to San Antonio due to custody issues. If we are denied the deferral and not allowed to to begin construction immediately, we will not be able to furnish suitable living conditions in a timely manner causing hardship on the children.

Thank you for your time and consideration on this matter.

Sincerely,


A handwritten signature in cursive script that reads "Juan Mendoza III". The signature is written in dark ink and includes a stylized flourish at the end.

Juan Mendoza III

CITY OF SAN ANTONIO

Department of Asset Management Interdepartmental Correspondence Sheet

*Agenda
Item # 20*

 **TO:** Planning Commission Consent Agenda
FROM: Mark Gretchen, Interim Director, Department of Asset Management *Mark Gretchen*
SUBJECT: S.P. No. 1272-Request to declare as surplus and sell a tract of City-owned real property within NCB 14319

DATE: Monday, January 28, 2008

PETITIONER: City of San Antonio
Department of Asset Management
P.O. Box 839966
San Antonio, Texas 78283-3966

Staff is requesting that this item be placed on the consent agenda for the Planning Commission meeting on 02/13/2008.

BACKGROUND

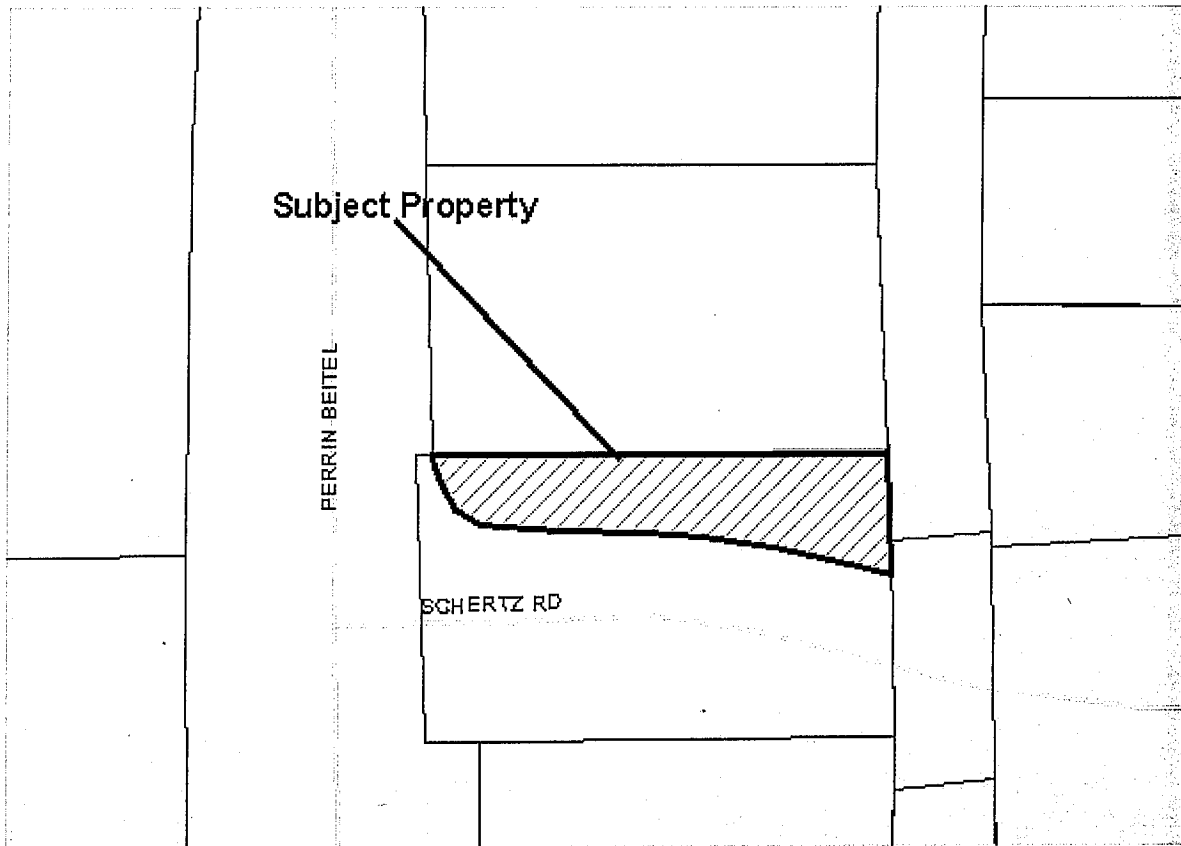
The Department of Asset Management is requesting to declare as surplus and sell the remaining portion of a vacant City-owned real property legally described as the South 100 feet of Lot 5, Block 1, New City Block 14319 in City Council District No. 10, as shown in attached Exhibit "A". This property was acquired in 1996 for a portion of the Wurzbach Parkway. This property was offered through a sealed bid process in the San Antonio Express News as outlined in Chapter 272 of the Local Government Code. On January 5, 2007, staff accepted a bid from Whitis Action Rentals, Ltd on this City-owned property to be sold. This property will be conveyed by a Deed Without Warranty.

COORDINATION AND FINANCIAL IMPACT

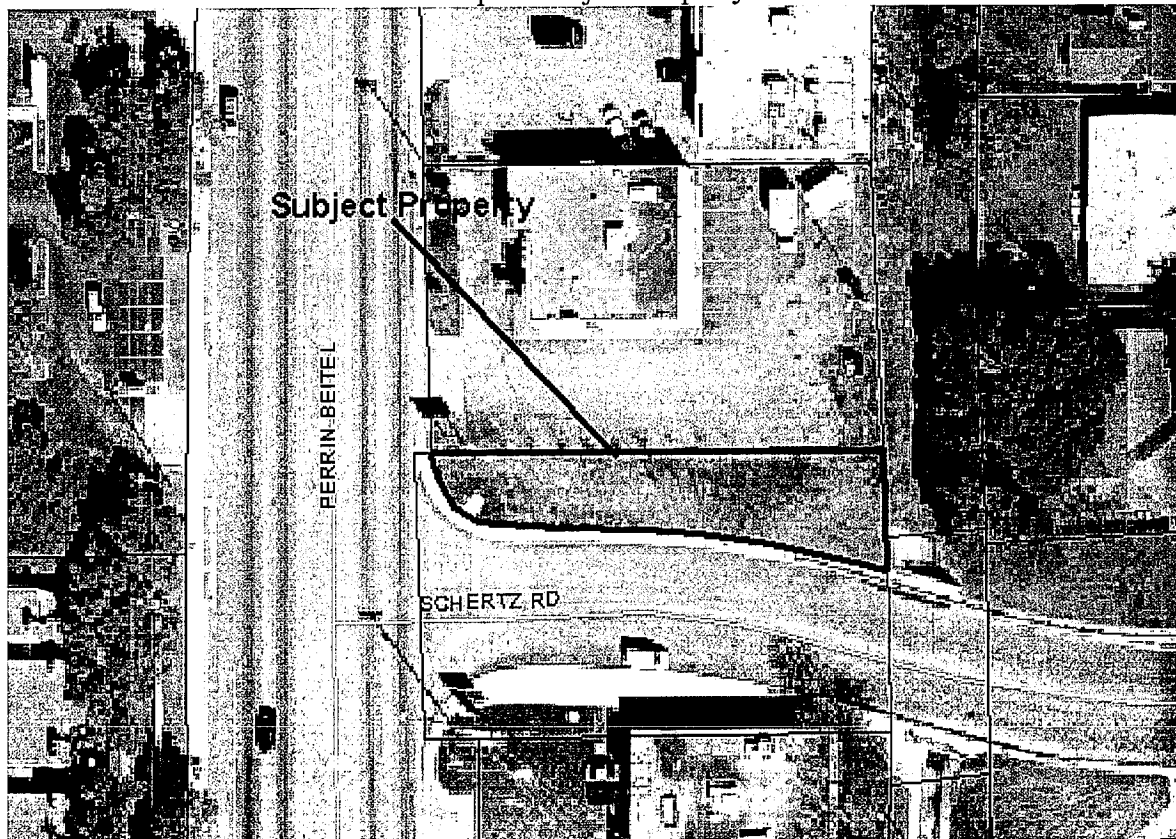
In compliance with City procedures, this request has been canvassed through interested City departments, public utilities and applicable agencies. An executed Disclosure Notice by which the petitioner agrees with all conditions imposed through this canvassing is attached for your review.

CONCLUSION AND RECOMMENDATION

Staff recommends approval of this request.



Map of Subject Property



Aerial Photograph of Subject Property

Exhibit "A"



View of Subject Property Facing East

Exhibit "A"

Page 2 of 2

Disclosure Notice:

Date: December 21, 2007

Buyer: Whitis Action Rentals, Ltd

Buyer's Address: 3000 Illinois Avenue, Suite 100, Killeen, Texas 76543

Description of Purchased Property: The remaining portion of Lot S 100 feet of 5, Block 1, New City Block 14319 known as 10612 Perrin Beitel

By the signature of Buyer or its representative below, Buyer acknowledges receipt of the following disclosures pertaining to the purchased property referred to above:

- The property is conveyed subject to all existing easements and other encumbrances. If
1. Buyer wants assurance of title, Buyer must contract and pay for an owner's policy of title insurance.
 2. Zoning district standards and replatting requirements may affect the use of the property, and Buyer must assure itself of any applicable requirements before closing. City will assume Buyer understands and accepts any attendant limitations if Buyer chooses to close.
 3. The property is too small to develop by itself.

The City of San Antonio provides the above disclosures for its own convenience. City does not assume the duty to give disclosures generally or to give the above disclosures accurately. Buyer must independently ascertain the accuracy of the above disclosures and must further independently ascertain all other facts relating to the title, character, condition, or suitability of the purchased property. The City of San Antonio disclaims any duty of disclosure whatsoever.

Upon receiving this disclosure statement, Buyer can choose not to close instead of signing the disclosure and going forward.

Whitis Action Rentals, Ltd., a Texas limited Partnership, by and through its sole general partner

Whitis Action Rentals Management, L.C.,
a Texas limited liability company

By: 
Bruce Whitis, Manager

Date: 12-27-07

**PLANNING COMMISSION
SUBDIVISION**

AGENDA ITEM NO: 21 February 13, 2008

WEST POINTE GARDENS, U-1A
SUBDIVISION NAME

MAJOR PLAT

080016
PLAT #

COUNCIL DISTRICT: 4 and Outside San Antonio City Limits

FERGUSON MAP GRID: 646 A-3

OWNER: Prestige Development, Inc., by Robert Laurel

ENGINEER: Gomez-Garcia & Associates, Inc., by Alejandro Gomez, P.E.

CASE MANAGER: Jasmin Moore, Planner (207-0142)

Date filed with Planning Commission: PENDING

Location: On the northwest corner of US Highway 90 and Cagnon Road

Services Available: Bexar Metro Water and SAWS Sewer

Zoning: Outside San Antonio City Limits
C-3 General Commercial District

Plat is in accordance with:

MDP #003-06, West Pointe Gardens was accepted on May 26, 2006.

Proposed Use: Single Family & Commercial

Major Thoroughfare: Highway 90 is a freeway minimum R.O.W. 250-500 feet.

APPLICANT'S PROPOSAL:

To plat **88.81** acres consisting of **188** single family lots, **3** non-single family lot, and **4,237** linear feet of public streets.

DISCUSSION:

The Bexar County Public Works Department has cited: Section 35-506(d) Table 506-3 of the UDC, Conventional Street Design Standards. The applicant's engineer has submitted a request for an Administrative Exception to the requirement.

The Development Services Director has granted an administrative exception to Section 35-506(d)(Table 506-3) of the UDC regarding "K" Values as indicated in the attached report.

STAFF RECOMMENDATION:

PENDING

OWNER/DEVELOPER: ROBERT LAUREL
PRESTIGE DEVELOPMENT, INC.
14110 BLANCK ROAD SUITE 4, SAN ANTONIO, TX 78232
(210) 493-7353 (210) 493-8881 FAX

- LEGEND
- 1/2" IRON ROD FOUND (UNLESS NOTED)
 - EXISTING CONTOURS
 - FOUND FROM ROD
 - PROPOSED CONTOURS
 - F.L.R.
 - 755
 - B.S.L.
 - ELECTRIC, GAS, TELEPHONE, AND CABLE TELEVISION
 - SSD, ELEC, GAS, TELEPHONE, AND CABLE TELEVISION
 - C.B.
 - N.C.B.
 - NEW CITY BLOCK
 - RIGHT-OF-WAY
 - ESMT
 - ESSENT
 - VEHICULAR NON-ACCESS
 - ESSENT
 - OFFICIAL PUBLIC RECORDS
 - O.P.R.
 - BEAR COUNTY, TEXAS

MEASUREMENTS ARE BASED ON THE TEXAS STATE PLANE COORDINATE GRID SYSTEM.

THE EXISTING PLANE COORDINATES SHOWN HEREIN ARE BASED ON AND REFERENCED TO THE NORTH AMERICAN DATUM ADJUSTMENT OF 1983.

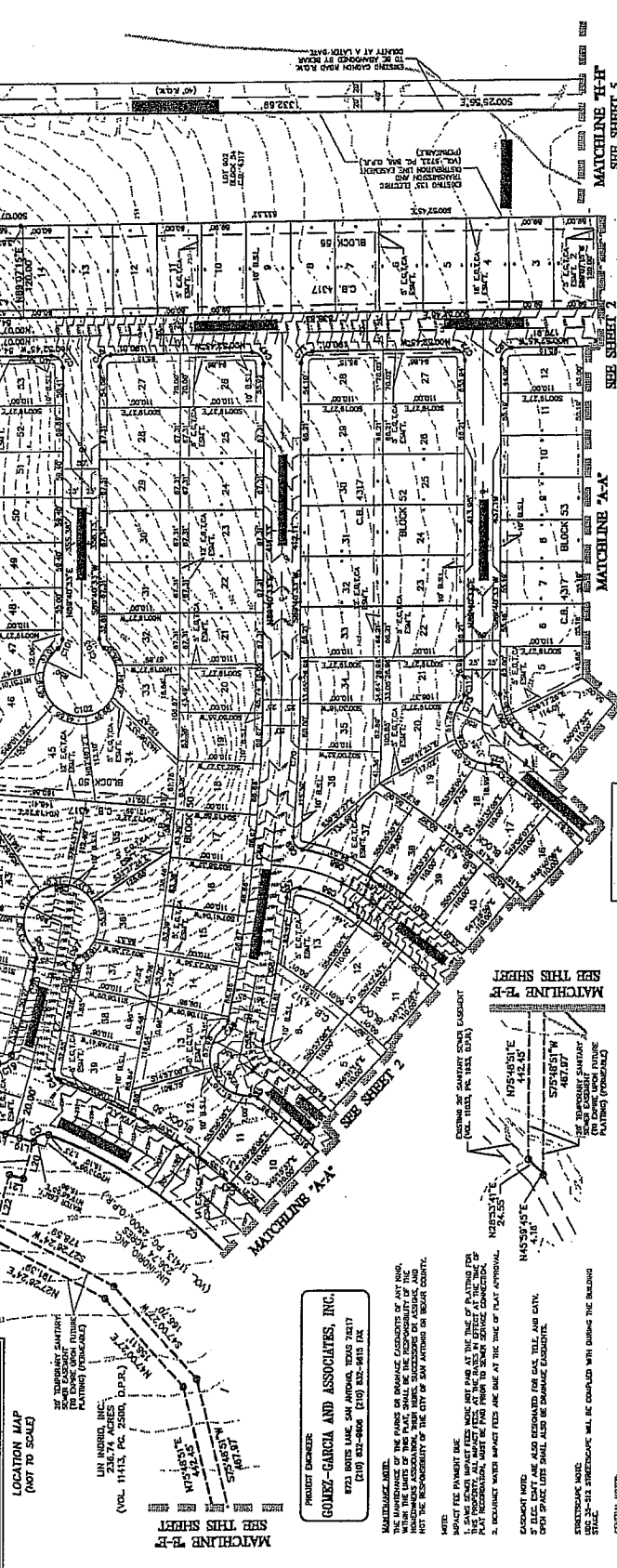
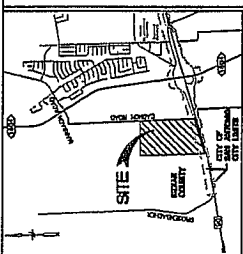
THE SITE SCALE FACTOR IS 0.999988.

REFER TO SHEET 5 FOR CURVE AND LINE TABLES

REFER TO SHEET 2 FOR TYPED NOTES

COMBINED SCALE FACTOR IS 0.999988713

MATCHLINE "C-C" SEE SHEET 3



NORTHSTAR LAND SURVEYING, INC.
8033 ARBO ST., SUITE 207
SAN ANTONIO, TEXAS 78217
(210) 828-8228

DEMONSTRATION LAYOUTS WITHIN THE PLAT ARE FOR ILLUSTRATION PURPOSES ONLY. THE PLAT IS NOT TO BE USED FOR CONSTRUCTION OF ANY STRUCTURE OR FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF THE SURVEYOR.

STATE OF TEXAS
COUNTY OF BEXAR
I, **DAVID L. HANCOCK**, Surveyor, do hereby certify that I am a duly licensed Surveyor in the State of Texas, and that I am the duly authorized representative of the Surveyor General of the State of Texas.

DATE: _____
BY: _____
COUNTY CLERK OF BEXAR COUNTY, TEXAS

GENERAL NOTES:

1. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF BEXAR, TEXAS, AND HAS FOUND THAT THE PLAT IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE PUBLIC RECORDS ACT.

2. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF BEXAR, TEXAS, AND HAS FOUND THAT THE PLAT IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE PUBLIC RECORDS ACT.

3. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF BEXAR, TEXAS, AND HAS FOUND THAT THE PLAT IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE PUBLIC RECORDS ACT.

4. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF BEXAR, TEXAS, AND HAS FOUND THAT THE PLAT IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE PUBLIC RECORDS ACT.

5. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF BEXAR, TEXAS, AND HAS FOUND THAT THE PLAT IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE PUBLIC RECORDS ACT.

THIS PLAT DOES NOT AFFECT, ALTER, CHANGE, OR OTHERWISE AFFECT ANY EASEMENTS, RIGHTS, OR INTERESTS IN THE LAND SHOWN HEREON, NOR DOES IT AFFECT THE VALIDITY OF ANY RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF BEXAR, TEXAS.

STATE OF TEXAS
COUNTY OF BEXAR
COUNTY CLERK OF BEXAR COUNTY, TEXAS

DATE: _____
BY: _____
COUNTY CLERK OF BEXAR COUNTY, TEXAS

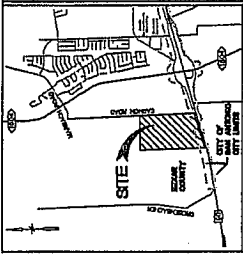
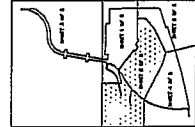
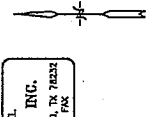
DATE: _____
BY: _____
COUNTY CLERK OF BEXAR COUNTY, TEXAS

DATE: _____
BY: _____
COUNTY CLERK OF BEXAR COUNTY, TEXAS

OWNER/DEVELOPER ROBERT LAUREL
PRESTIGE DEVELOPMENT, INC.
4410 BLANCO ROAD SUITE 4, SAN ANTONIO, TX 78226
(210) 483-7003 (210) 403-8001 FAX

PROJECT ENGINEER
GOMEZ-GARCIA AND ASSOCIATES, INC.
8723 BOOTS LANE, SAN ANTONIO, TEXAS 78217
(710) 571-8606 (710) 572-0815 FAX

**NORTHSTAR LAND
SURVEYING, INC.**
9033 AERO ST., SUITE 207
SAN ANTONIO, TEXAS 78217
(210) 826-8228



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
Interdepartmental Correspondence

TO: San Antonio Planning Commission

FROM: Melissa Ramirez, Senior Management Analyst on behalf of Fernando DeLeón,
Development Services Assistant Director

COPY: File and City Attorney's Office

SUBJECT: Appeal of Creamer Rights Determination for VRP 07-01-022

DATE: February 13, 2008

SUMMARY AND RECOMMENDATION:

The applicant filed an appeal of denial for Permit Rights subsequently referred to as Statutory Rights associated with POADP #772, Creamer Subdivision. The Unified Development Code (UDC) §35-712(d) authorizes the Planning Commission to hear such appeals. The issue is to determine the validity of Statutory Rights associated with the Creamer POADP. POADP #772 was submitted on March 2, 2001 therefore, the rules of the 1987 UDC, as amended up to the 2001 UDC, hereinafter referred to as the 1987 UDC, apply and are consistent with Chapter 245 of the Texas Local Government Code. Staff recommends denial of the appeal.

BACKGROUND INFORMATION:

On March 2, 2001, the City received an application to create the Creamer Subdivision POADP. The POADP was accepted on January 4, 2004 and assigned number 772. The expiration date for POADP #772 was July 5, 2005. On February 8, 2005 the Shaenfield Ten Commercial plat was filed and assigned plat number 050209. The plat was approved in June 2005. Under the rules of the 1987 UDC, §35-2076 *Terms of Validity*, the plat validated POADP #772.

On May 27, 2004, a Rights Determination, #04-04-106 (AKA Vested Rights) was issued for this project based on POADP #772. At the time of the 04-04-106 determination, POADP #772 was valid and the 18 month platting requirement had not lapsed. Plat #050209, Shaenfield Ten Commercial was the only plat filed on this property. This plat was considered in the determination of the validity of permit rights for the project in the Rights Determination #07-01-022. The 1987 UDC rules were applicable at the time of filing POADP #772. To obtain permit/statutory rights 8% of the net POADP area was required to be platted within 18 months of the date of acceptance of the POADP. The Shaenfield Ten Commercial Plat 050209 platted only 4.237% of the net POADP area. The result was 2.953 acres platted verses 5.575 acres required. While the plat validated the POADP it was insufficient to meet the 8% platting requirements of §35-1027(d) *Development Permits* and no additional plats were filed before the July 5, 2005 expiration date. Therefore, the permit rights for the project expired.

POLICY ANALYSIS:

In September 1997, the City amended the 1987 UDC to develop a process to recognize Permit/Statutory Rights with §35-1027(d) *Development Permits*.

*"The following criteria will be used by the city in determining the existence of rights for **projects initiated after September 1, 1997**. . . . rights will be recognized on the property which is subject to a POADP that has been approved by the city planning department. The permit rights recognized for property located within an approved POADP will expire unless a final plat is approved within 18 months from the approval of the POADP that plats at least 8% of the net area of the POADP area or that requires at least \$500,000 in infrastructure expenses. . . . etc." (UDC§35-1027(d))*

These provisions remained in effect until May 3, 2001 when the 2001 UDC was adopted. The 2001 UDC incorporated the 8% platting requirement within 18 months. The provision was subsequently amended in February 2006 to extend the 18 months 8% platting requirement to two years. Even if the 2006 amendments were applied using the two year 8% platting requirements, the permit would still not be eligible for permit/statutory rights.

The City of San Antonio recognizes Permit/Statutory Rights on multi-phase projects (i.e. POADPs) through the provisions of the 1987 Unified Development Code as amended in 1997 and as adopted in the 2001 UDC and amended in February 2006.

POADP #772 was submitted after the September 1, 1997. Therefore, the potential Permit/Statutory Rights associated with the project were subject to the rules in effect at the time which included §35-1027(d) *Development Permits*. While the applicant is entitled to take advantage of the rules adopted under the 2001 UDC, the 8% platting requirements within 18 months of the date of acceptance continued in the provisions of §35-712. The reliance by the applicant on the filing of a single plat for 4.237% of the net POADP area does not meet UDC's *Development Permit* platting requirement to plat a minimum of 8% of the area.

STAFF RECOMMENDATION:

POADP #772 was submitted on March 2, 2001 and was subject to the provisions of the 1987 UDC §35-1027(d) *Development Permits*. The Director's determination to deny "Statutory Rights" was based on the appropriate regulations in effect at the time of the submittal. Staff recommends denial of the appeal.

Creamer Subdivision Rights Determination Appeal

Item No. 22
Planning Commission
February 13, 2008

1

Briefing

The applicant has appealed the denial of Statutory Rights in accordance with §35-712(d) of the UDC.

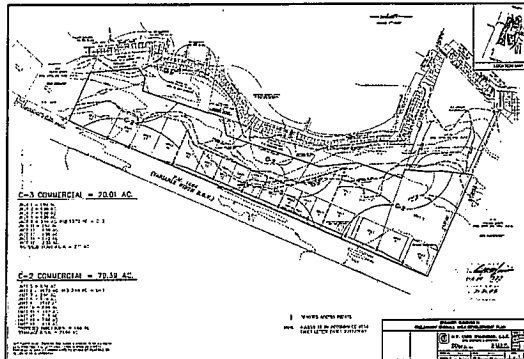
- Briefing:
 - Development History
 - POADP
 - Statutory Rights
 - UDC Review
 - Policy Analysis
 - Staff Recommendation

2

Development History

Permit Submittal:

- The City received an application to create the Creamer Subdivision, POADP on March 2, 2001.
- POADP 772 was accepted by the City on January 4, 2004.
- POADP 772 was set to expire on July 5, 2005, 18 months of the acceptance date.

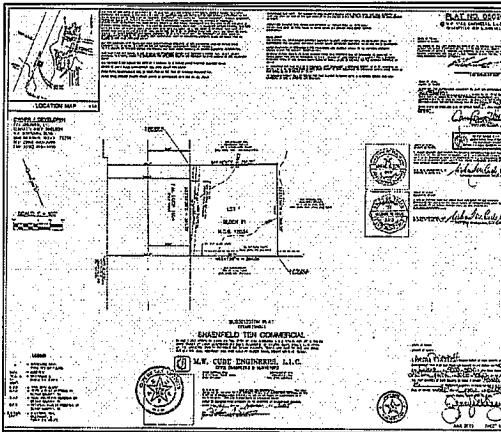


3

Development History - continued

POADP Validity §35-2076 :

- Plat 050209 was submitted in February 2005 and approved in June 2005.
- Plat 050209 associated with POADP 772 was filed within 18 months.
- As per the UDC §35-2076 this plat validated POADP 772.



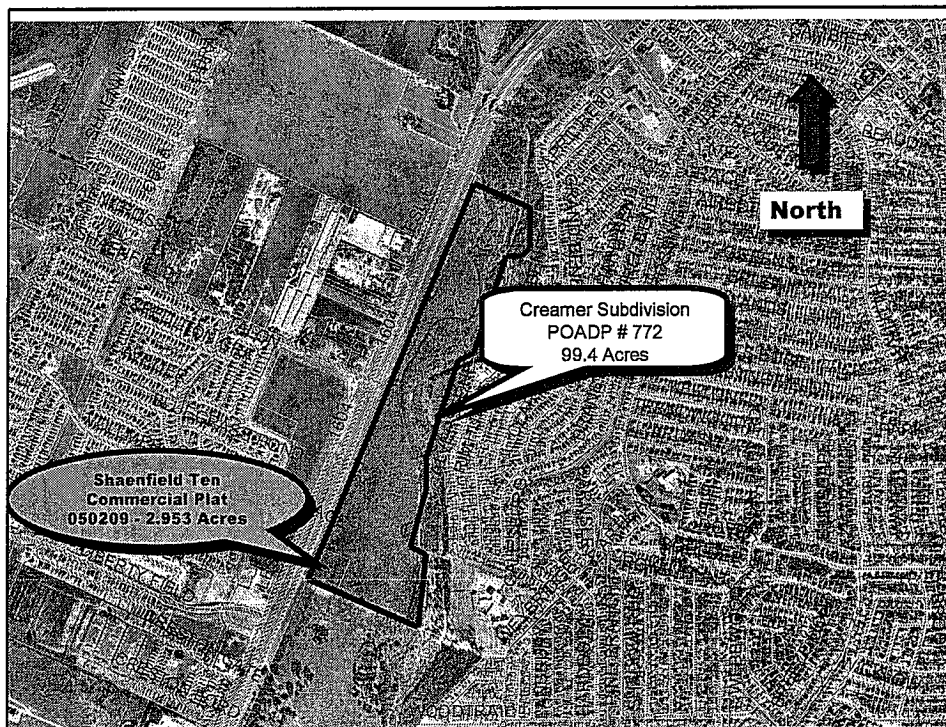
4

Development History - continued

Development Permits §35-1027:

- A Rights Determination (AKA Vested Rights) request was issued for this property based on POADP 772 on May 27, 2004 (04-04-106). Four months after the POADP was accepted.
- A second request was submitted for a Rights Determination on March 2, 2007 (07-01-022) and this application was denied based on the Development Permits §35-1027.
- The Shaenfield Ten Commercial 050209 Plat that validated POADP 772 was also considered in determining the validity of Statutory Rights for the project.
- As per the UDC 8% of the net developable POADP area is to be developed, the plat provided 4.237% (acreage: 2.953 platted vs. 5.575 acres needed to be platted).
- Because the plat failed to meet the 8% and no additional plats were approved before the July 5, 2005 expiration date, the potential to validate Statutory Rights for the project expired.

5



UDC Provisions for Permit Rights

- The City adopted provisions in September 1997 to recognize Statutory Rights.
 - *"The following criteria will be used by the city in determining the existence of rights for projects initiated after September 1, 1997. . . . rights will be recognized on the property which is subject to a POADP that has been approved by the city planning department. The permit rights recognized for property located within an approved POADP will expire unless a final plat is approved within 18 months from the approval of the POADP that plats at least 8% of the net area of the POADP area or that requires at least \$500,000 in infrastructure expenses. . . . etc."* (UDC§35-1027(d))
- These provisions remained the same in the amended May 3, 2001 UDC.
- The provisions were amended in February 2006 to extend the 18 months 8% platting requirements to 2 years.

7

Policy Analysis

- Chapter 245 requires the existence of a "permit" and "project" to preserve potential Statutory Rights. These rules were in place at the time the application was submitted.
- Staff agrees with the applicant that the POADP is a valid "permit" and that Statutory Rights were approved during the 18 month period.
- Consistent with §35-1027, the 18 month 8% platting requirement for permit rights has expired and the owner has not maintained their Statutory Rights associated with the POADP.
- The applicant is appealing this denial of Statutory Rights.

8

Policy Analysis - continued

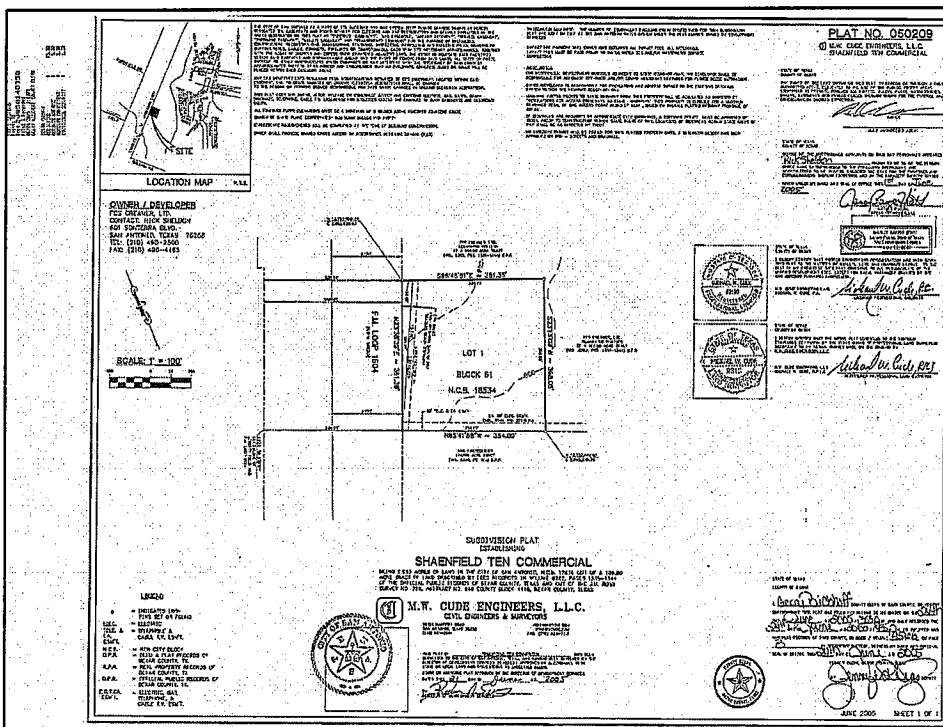
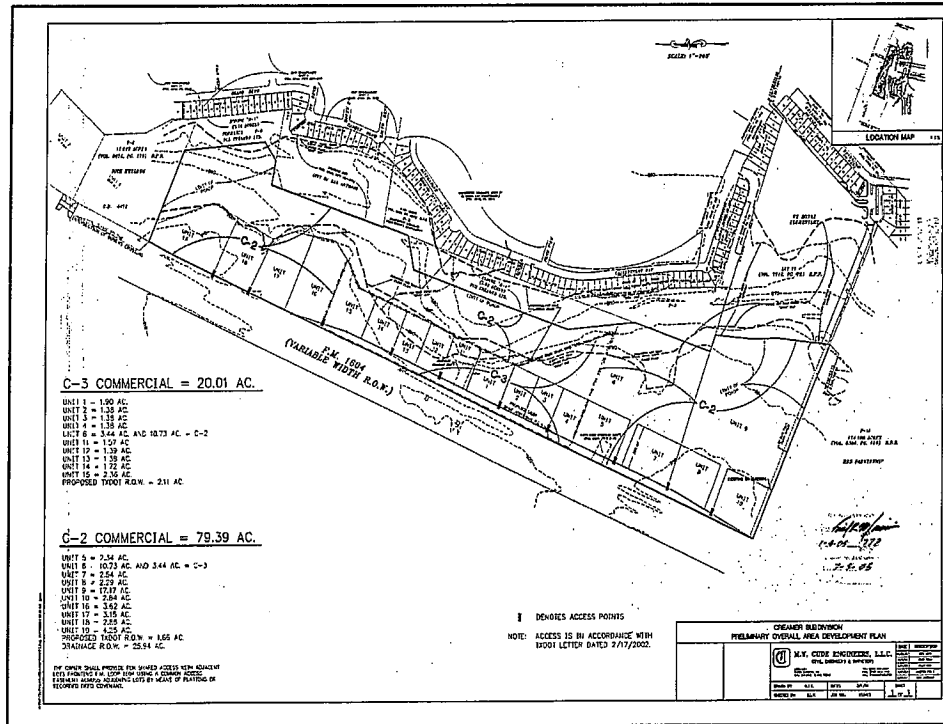
- The City recognizes Statutory Rights on multi-phase projects (POADPs) through the provisions of the UDC as amended in 1997 and continued in the 2001 and 2006 UDC amendments.
- Because POADP 772 was submitted after September 1, 1997, the potential Statutory Rights associated with the project were subject to the conditions outlined in §35-1027(d) and as the UDC was amended the conditions outlined regarding Statutory Rights continued in §35-712 of our current UDC.
- The reliance by the applicant on the filing of a single plat for 4.237% of the net area does not meet the conditions outlined in §35-1027, which require platting a minimum of 8% of the net area.

9

Staff Recommendation

- Staff recommends denial of the appeal.
 - POADP 772 permit was initiated March 2, 2001 and was subject to the provisions of §35-1027.
 - The Director's determination to deny Statutory Rights was based on the regulations in effect at the time of the submittal, which were adopted in 1997.

10



KENNETH W. BROWN, AICP
DANIEL ORTIZ
PATRICK W. CHRISTENSEN
JAMES B. GRIFFIN

BROWN, P.C.
ATTORNEYS AT LAW

RECEIVED

PAUL M. JUAREZ
OF COUNSEL

JAN 16 AM 10:09

112 E. PECAN STREET
SUITE 1490
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210.299.3704
FAX: 210.299.4731

LAND DEVELOPMENT
SERVICES DIVISION

January 4, 2008

Mr. Fernando DeLeon
Assistant Director, Development Services Department
City of San Antonio
1901 S. Alamo, 2nd Floor
San Antonio, TX 78204

Via Hand-Delivery

Murray Van Eman
Chairman
City of San Antonio Planning Commission
200 Concord Plaza, Suite 425
San Antonio, TX 78216

Via Overnight Delivery

Re: Appeal of the Development Services Department's Determination Regarding Vested Rights Permit No. 07-01-022 for a 99.40-Acre Tract of Land Located on Loop 1604, North of the Intersection of Culebra Road, San Antonio, Bexar County, Texas (the "Subject Property"); *Our File No. 9001.002*

Dear Mr. Van Eman and Mr. DeLeon:

The purpose of this correspondence is to formally request scheduling of a previously postponed appeal of the Development Services Department's determination regarding Vested Rights Permit No. 07-01-022 for the Subject Property. Such appeal, attached hereto as **Exhibit "A,"** was postponed by this Firm pursuant to a proposed Consent Agreement to be entered into between our client and the City of San Antonio. However, as per correspondence dated November 29, 2007, the City of San Antonio determined that no such Consent Agreement could be reached. As such, we would like to have this appeal placed on the Planning Commission's next available agenda date, January 23, 2008.

If you have any questions with regard to this matter, please do not hesitate to contact me.

Sincerely,
BROWN, P.C.

By: _____

Daniel Ortiz

Enclosures: As stated
CC: Melissa Ramirez

KENNETH W. BROWN, AICP
DANIEL ORTIZ
PATRICK W. CHRISTENSEN
CONNIE L. BASEL

BROWN, P.C.
ATTORNEYS AT LAW

112 E. PECAN STREET
SUITE 1490
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210.299.3704
FAX: 210.299.4731

PAUL M. JUAREZ
OF COUNSEL
RECEIVED

08 JAN 16 AM 10:09

LAND DEVELOPMENT
SERVICES DIVISION

April 11, 2007

Mr. Roderick J. Sanchez, AICP
Director, Development Services Department
City of San Antonio
1901 S. Alamo, 2nd Floor
San Antonio, TX 78204

Via Hand-Delivery

Re: Appeal of the Development Services Department's Determination Regarding Vested Rights Permit No. 07-01-022 for a 99.40-Acre Tract of Land Located on Loop 1604, North of the Intersection of Culebra Road, San Antonio, Bexar County, Texas (the "Subject Property"); *Our File No. 9001.002*

Dear Mr. Sanchez:

Pursuant to Section 35-712(d) of the COSA Unified Development Code ("UDC"), please accept this correspondence as an appeal of the City of San Antonio ("COSA") Development Services Department's (the "Department") denial of **Vested Rights Permit No. 07-01-022**.

I. BACKGROUND FOR APPEAL

On January 31, 2007, our Firm requested that COSA (re)acknowledge vested rights as of March 2, 2001 for a commercial/retail project (the "Subject Project") based on the Creamer Subdivision Preliminary Overall Development Plan No. 772 ("POADP No. 772") and the Shaenfield Ten Commercial Subdivision Plat #050209 (the "Shaenfield Plat") (**Exhibit 1**). As noted in our request, COSA had previously acknowledged vested rights for the Subject Property/Project based on POADP No. 772 and the Shaenfield Plat (*see* Vested Rights Permit No. 04-04-106, which was issued by COSA on May 27, 2004) (**Exhibit 2**).

On February 2, 2007, correspondence was received from the Department indicating that a Fair Notice Form was required in order to process the subject vested rights application as per the "Fair Notice Ordinance" (Ordinance No. 2006-02-016-0241) (**Exhibit 3**). In short, the Department was asking for the property owner to comply with an ordinance adopted in 2006 in order to determine if he/she had perfected "vested rights" as of 2001. In addition to requiring a Fair Notice Form, the correspondence provided that "[a]ll appeals and resubmittals must be filed with the Director of Development Services within fifteen (15) calendar days from the date the applicant is notified of the adverse decision or action taken under these requirements." Because our Firm interpreted this correspondence to be an adverse decision or action, an appeal of the Department's determination was filed on February 16, 2007 (well within the fifteen (15) day time period for appeals) (**Exhibit 4**). Nevertheless, rather than placing the matter on the Planning Commission



DSD

04-11-07 203:53 IN

04-11-07 11:51 AM

Michael A. Santhia

agenda as required by Section 35-712(d) of the UDC, the Department issued a second notification of an adverse action or decision. The second notification, dated March 27, 2007, read in pertinent part as follows:

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LAND DEVELOPMENT
SERVICES DIVISION

"[i]t is **recommended** that the applicant submit a Fair Notice Form in compliance with [the "Fair Notice Ordinance"]. Notwithstanding the requirements of [the Fair Notice Ordinance], recommendation is for denial of rights effective March 2, 2001. **VRP # 04-04-106 is no longer valid based on Section 35-1027 of the Unified Development Code (UDC) [the "Development Rights Ordinance"], which was in effect at the time POADP #772 was submitted. When POADP #772 was submitted only a plat filed within 18 months was required to validate a POADP, Section 35-2076 of the 1987 UDC. However, in accordance with Section 35-1027 permit rights expired 18 months after the acceptance of the POADP, without a final plat for eight (8) percent of the net area being approved. As a result permit rights expired January 4, 2006, including VRP # 04-04-106. Permit rights are not indefinite. Rights exist only as long as the underlying permit is valid and the rights are consistent with the applicable law**" (emphasis added throughout) (**Exhibit 5**).

This correspondence shall serve as a second appeal of the Department's most recent action to deny vested rights for the Subject Property/Project as of March 2, 2001. The following analysis is presented (again) for the Planning Commission's review and consideration:

II. VESTED RIGHTS ANALYSIS FOR APPEAL

The Subject Property is a 99.40-acre tract of land, more particularly described as POADP No. 772. Said POADP No. 772 was filed with COSA on March 2, 2001 (**Exhibit 6**), and was ultimately "accepted" (i.e. approved) by COSA on January 4, 2004 (**Exhibit 7**). The project described by POADP No. 772 is a commercial/retail development (the "Subject Project"). POADP No. 772 is a required "permit" by COSA and, therefore, qualifies as the first "permit" in a series of permits necessary for the development of the Subject Project as those terms are intended by Chapter 245 of the Texas Local Government Code ("Chapter 245").

As the Department noted in its second correspondence, **Section 35-2076** ("Terms of Validity") of the COSA Code of Ordinances in effect on March 2, 2001 mandates that a POADP "shall become invalid if a plat is not filed within eighteen (18) months from the date the POADP is accepted" (**Exhibit 8**). The current UDC requirements for maintaining the validity of a POADP are admittedly more demanding (**Exhibit 9**). But, applying such requirements to the Subject Project clearly undermines Chapter 245 in that the first application for POADP No. 772 was submitted prior to the adoption of the current UDC. It is for this reason that the Department is not denying "vested rights" for the Subject Project based on the current UDC. Rather, claims the Department, the Subject Project forfeited "vested rights" because POADP No. 772 did not comply with the POADP requirements called for by Section 35-1027 of the "Development Rights Ordinance" – interestingly, such POADP requirements are virtually identical to those outlined in the current UDC (**Exhibit 10**). The Department argues that the Subject Project is governed by the Development Rights Ordinance simply because it was "in effect at the time POADP #772 was submitted."

As you know, in 1997 COSA adopted its "Development Rights Ordinance" after the Texas Legislature inadvertently repealed the then-"vested rights" provisions in state law. In effect, COSA adopted a *local version* ("permit rights") of a previously-recognized *state right* ("vested rights"). In 1999, however, the Texas Legislature reenacted the state law provisions for "vested rights" by adopting Chapter 245 for *any project in progress before, on, or after September 1, 1997* (i.e. the new Chapter 245 is retroactive by its own terms) (**Exhibit 11**). In the end, **RECEIVED**
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LAND DEVELOPMENT
SERVICES DIVISION
the Department's denial of "vested rights" is generally as follows:

- (1) "permit rights" are locally-granted property rights that are solely governed by the "Development Rights Ordinance" – "permit rights" are recognized by the Department pursuant to a Development Rights Permit (DRP);
- (2) "vested rights" are retroactive, state-granted property rights that are solely governed by Chapter 245 – recognition of "vested rights" are recognized by the Department pursuant to a Vested Rights Permit (VRP);
- (3) simply because the Development Rights Ordinance was "in effect at the time POADP #772 was submitted" *does not* mean that the Subject Project must comply with such ordinance's requirements;
- (4) by its own, very specific, terms the Development Rights Ordinance limited its scope to maintaining "permit rights" – *not Chapter 245 "vested rights"* (in fact, the ordinance could not have included in its scope "vested rights" since Chapter 245 did not exist at the time the City Council adopted the ordinance);
- (5) because Vested Rights Permit Application No. 07-01-022 sought acknowledgement of "vested rights", the Subject Project's "vested rights" should be assessed based upon the rules for maintaining the validity of a POADP at the time the first application was submitted (i.e. as per the terms of Chapter 245) - to draw from the Department's own denial: **"When POADP #772 was submitted only a plat filed within 18 months was required to validate a POADP, Section 35-2076 of the 1987 UDC."**
- (6) Even if "permit rights" rights for the Subject Project were not maintained, "vested rights" for POADP no. 772 were established (as the Department already acknowledged once) upon COSA's approval of the Shaenfield Plat on June 21, 2005 (**Exhibit 12**). Such plat approval satisfied the requirements of Section 35-2076.

Finally, the Subject Project has not become "dormant," as defined by Chapter 245 and Section 35-717(c) of the UDC. Section 35-717(c) of the UDC provides that a project is in progress if within five (5) years after the filing of the application progress towards completion has been demonstrated. Such progress is defined as submitting an application for a plat or plan, the filing of a permit, incurring infrastructure costs, posting a bond with a regulatory agency, or the payment of impact fees. Progress for the Subject Project was satisfied by the filing, approval, and recording of the Shaenfield Plat, all of which occurred within five (5) years of the initial application date for POADP No. 772.

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To better illustrate the above, the following timeline is presented:

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September 25, 1997	Development Rights Ordinance adopted by COSA creating "permit rights."
May 11, 1999	Chapter 245 is adopted by the 76 th Texas Legislature, which re-established statutory "vested rights" for a project in progress before, on, or after September 1, 1997.
March 2, 2001	The original application for a permit was filed (application for POADP No. 772). At that time, in order to maintain a POADP (<i>not necessarily to maintain "permit rights"</i>), Section 35-2076 of the COSA Code of Ordinances only mandates that a POADP "shall become invalid if a plat is not filed within eighteen (18) months from the date the POADP is accepted."
May 3, 2001	The current UDC requirements are adopted for maintaining a POADP (Section 35-412(h)(1)(A) of the UDC) (they are virtually identical to those requirements called for by the Development Rights Ordinance).
May 27, 2004	COSA acknowledges "vested rights" for the Subject Property/Project as of March 2, 2001 based on the analysis described herein (Vested Rights Permit No. 04-04-106).

III. CONCLUSION

When taken together, POADP No. 772 constitutes a "permit" as defined by Chapter 245 of the Code, and was a necessary first step in the development of the Subject Property/Project. POADP No. 772 has satisfied the applicable eighteen (18) month validity requirement of Section 35-2076, and has satisfied Chapter 245's dormancy provisions by virtue of the submittal and approval of the Shaenfield Plat. In short, the Subject Project has vested rights as of March 2, 2001. Depending on the final scope of the Department's argument for denying Vested Rights Permit No. 07-01-022, please note that this correspondence should be read in conjunction with our Firm's first appeal dated February 16, 2007. Our Firm requests that this issue be immediately placed upon the next available Planning Commission agenda, in compliance with the Texas Open Meetings Act.

If you have any questions with regard to this matter, please do not hesitate to contact me.

Sincerely,
BROWN, P.C.

By: 
Kenneth W. Brown, AICP

Enclosures: As stated

2045

BROWN, P.C.
112 E. PECAN, STE 1490
SAN ANTONIO, TX 78205

DATE April 11, 07

88-2193/1140
15

PAY
TO THE
ORDER OF

COSA

\$ 500.00

FIVE HUNDRED DOLLARS & NO/100

DOLLARS

Security features
are included
Details on back.



BROADWAY BANK

P.O. Box 17001 • San Antonio, Texas 78217
(210) 283-6500 • (800) 531-7850

FOR VRS Appeal to PC 9001.002

[Signature]

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⑈0000454877⑈

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SERVICES DIVISION

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[Signature]

KENNETH W. BROWN AICP
DANIEL ORTIZ
PATRICK W. CHRISTENSEN
CONNIE L. BASEL



112 E. PECAN STREET
SUITE 1490
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210 298.3704
FAX: 210 298 4731

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LAND DEVELOPMENT
SERVICES DIVISION

January 31, 2007

PAUL M. JUAREZ
OF COUNSEL

tabbles

EXHIBIT

1

Mr. Michael Herrera
Development Services Department
City of San Antonio
1901 S. Alamo, 2nd Floor
San Antonio, TX 78204

Via Hand Delivery

Mr. Norbert Hart
City Attorney's Office
City of San Antonio
100 Military Plaza, 3rd Floor
San Antonio, TX 78205

Via Hand Delivery

Re: Vested Rights for the Creamer Subdivision POADP #772, a 99.40-Acre Tract of Land
Located on Loop 1604, North of the Intersection of Culebra Road, San Antonio,
Bexar County, Texas (the "Subject Property"); *Our File No. 9001.002*

Dear Messrs. Herrera and Hart:

Vested Rights Permit No. 04-04-106

On May 27, 2004, the City of San Antonio ("COSA") recognized vested rights derived from Chapter 245 ("Issuance of Local Permits") of the Texas Local Government Code (the "Code") for the Subject Property. Such recognition was evidenced by Vested Rights Permit No. 04-04-106, which acknowledged vested rights for the Subject Property as of March 2, 2001 (*see Exhibit "1"*). Vested Rights Permit No. 04-04-106 was based on the following permit application submittals and approvals:

- (i) the Creamer Subdivision Preliminary Overall Area Development Plan #772, which was submitted to COSA on March 2, 2001 (*see Exhibit "2"*), and was subsequently approved on January 4, 2004 ("POADP #772; *see Exhibit "3"*); and,
- (ii) the Shaenfield Ten Commercial Subdivision Plat #050209, which was submitted to COSA on February 8, 2005 (the "Shaenfield Plat", *see Exhibit "4"*). Such plat platted a portion of the property encompassed by POADP #772.

Purging POADP #772

Nevertheless, the Development Services Department (the "Department") recently purged POADP #772 from the "MDP Master List" for its failure to satisfy Section 35-412(h) ("Scope of

VRP#07-01-022

Approval") of the current Unified Development Code (the "UDC"). As you know, the current UDC was adopted by COSA on May 3, 2001 (see Exhibit "5"). Because a valid application for POADP #772 was submitted to COSA on March 2, 2001, maintaining the validity of such POADP is governed by those requirements in effect prior to the adoption of the current UDC. The requirements in effect on March 2, 2001 (i.e. prior to the adoption of the current UDC) are codified as Section 35-2076 ("Terms of Validity") of the then COSA Code of Ordinances (see Exhibit "6"). As proposed to the current UDC requirements, Section 35-2076 makes clear that a POADP "shall become invalid if a plat is not filed within eighteen (18) months from the date the POADP is accepted" (emphasis added). Although POADP #772 was submitted to COSA on March 2, 2001 (thereby triggering the application of Section 35-2076), the POADP was not "accepted" (or, approved) by COSA until January 4, 2004. Following that, the Shaenfield Plat was "filed" with COSA on February 8, 2005, well within the eighteen (18)-month timeline required by Section 35-2076.

In the end, the Department recognized the applicability of Section 35-2076, and the ongoing validity of POADP #772, based on the analysis set forth above. The validity of POADP #772 was formally acknowledged by its reinstatement in the "MDP Master List," and in correspondence from the Department dated August 31, 2006 (see Exhibit "7").

Failure to Recognize Vested Rights Permit No. 04-04-106

On June 2, 2006, the Department denied a Tree Permit for the Subject Property because Vested Rights Permit No. 04-04-106 was no longer valid. Of course, the Department's unilateral decision not to recognize Vested Rights Permit No. 04-04-106 directly conflicts with its acknowledgment that the underlying permits (POADP #772 and the Shaenfield Plat) remain valid (as discussed above). According to the Department, Vested Rights Permit No. 04-04-0106 is no longer valid because the underlying permits did not comply with COSA's "Development Rights" Ordinance (COSA Ordinance No. 86715).

As you know, COSA adopted the Developmental Rights Ordinance in 1997 because the Texas Legislature inadvertently repealed the then "vested rights" provisions in state law (see Exhibit "8"). The Development Rights Ordinance, which was codified as Section 35-1027 of then Code of Ordinances (entitled, "Development Permits"), specifically defined "Permit Rights" and mandated that "Permit Rights recognized for property located within an approved POADP . . . expire unless a final plat is approved within eighteen (18) months from the approval of the POADP that plats at least eight (8) percent of the net area of the POADP". Please note that the platting requirements mandated by the Development Rights Ordinance closely mirror the platting requirements mandated by the current UDC. The Department acknowledged that the current UDC's platting requirements do not apply to POADP #772 and, therefore, reinstated POADP #772. Now, because the Department could not force POADP #772 to comply with the current UDC's requirements, the Department has chosen to apply (essentially) the same platting requirements by virtue of the Development Rights Ordinance. As before, POADP #772 is not subject to the platting requirements the Department is attempting to impose.

In 1999 the Texas Legislature created Chapter 245 of the Texas Local Government Code, which reenacted the state law provisions for "vested rights" (see Exhibit "9"). The Development Rights Ordinance, however, was not repealed. By specifically defining "Permit Rights" prior to the enactment of Chapter 245 and by not amending such definition to include any reference to Chapter 245, COSA created a property development right independent of Chapter 245's "vested rights". Perhaps more importantly, COSA made clear in the Ordinance that "Permit Rights" (again, without any reference to Chapter 245) would expire unless the requisite platting requirements were satisfied. If the Subject Property's development were protected pursuant to a "Development Rights" Permit,

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any "Permit Rights" would be assessed (as the Department is asserting) based on the platting requirements outlined in the Development Rights Ordinance. The Subject Property's development, however, is protected pursuant to Vested Rights Permit No. 04-04-106, issued pursuant to and governed solely by Chapter 245. The Subject Property's "vested rights" should be assessed based on the platting requirements of As a result, POADP #772's ongoing validity must be determined based on the requirements of the Texas Local Government Code, which triggers only the platting requirements of Section 35-2076 as it read on March 2, 2001.

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SERVICES DIVISION

Based on the analysis set forth above, an attempt was made to appeal the Department's decision via correspondence dated November 17, 2006. The correspondence specifically requested the following: (i) an appeal of the COSA's decision to invalidate Vested Rights Permit No. 04-04-106 pursuant to Section 35-712(d) of the UDC, and (ii) that the matter be set on the next available Planning Commission agenda. Shortly thereafter, our Firm was informed by the City Attorney's office an appeal pursuant to Section 35-712(d) of the UDC only applies to the denial of a Vested Rights Permit Application, and not to the rescission of a previously-issued Vested Rights Permit. In short, COSA unilaterally rescinded a previously-issued Vested Rights Permit and denied any appeal of such action.

For that reason, our client's only alternative is to file a new Vested Rights Permit Application for the Subject Property in order to perfect an appeal of the now-rescinded Vested Rights Permit Approval. Attached hereto please find a new Vested Rights Application for the Subject Property. This request to (re)recognize vested rights for the Subject Property is made pursuant to the current provisions of Chapter 245 of the Code, and the COSA's UDC, Chapter 35, Article 7, Division 2 ("Vested Rights"). Please note that submittal of a new Vested Rights Application in no way constitutes a waiver, renunciation, encumbrance, or modification of any rights (including appellate rights) associated with previously-issued Vested Rights Permit No. 04-04-106.

Analysis for Vested Rights

The Subject Property is a 99.40-acre tract of land, more specifically described as the Creamer Subdivision Preliminary Overall Development Plan #772. POADP #772 was filed with COSA on March 2, 2001 and was ultimately "accepted" (or, approved) by COSA on January 4, 2004. The development described by POADP #772 is a commercial/retail development (the "Subject Project"). POADP #772 is a required "permit" by a regulatory agency (i.e. the COSA) and, therefore, clearly qualifies as the first "permit" in a series of permits necessary for the development of the Subject Project as those terms are intended by Chapter 245 of the Code.

Section 35-2076 ("Terms of Validity") of the code of ordinances in effect on March 2, 2001 mandates that a POADP "shall become invalid if a plat is not filed within eighteen (18) months from the date the POADP is *accepted*" (emphasis added). Although the current UDC requirements for maintaining the validity of a POADP are somewhat more demanding, applying such requirements to a POADP that was submitted prior to the adoption of the current UDC clearly undermines the intent of Chapter 245 of the Code. POADP #772 did not expire due to COSA's approval of the Shaenfield Plat on June 21, 2005, which satisfied the applicable requirements of Section 35-2076. Moreover, the Subject Project is not "dormant," as defined by Section 245.005 of the Code and Section 35-717(c) of the UDC. Section 35-717(c) of the UDC provides that a project is in progress if within five (5) years after the filing of the application, progress towards completion has been demonstrated. Such progress is defined as submitting an application for a plat or plan, the filing of a permit, incurring infrastructure costs, posting a bond with a regulatory agency, or the payment of impact

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fees. Progress for the Subject Project was satisfied by the filing, approval, and recording of the Shaenfield Plat, all of which occurred within five (5) years of the initial application date for POADP #772.

When taken together, POADP #772 constitutes a "permit" as defined by Chapter 245 of the Code, and was a necessary first step in the development of the Subject Property. POADP #772 has satisfied the applicable eighteen (18) month validity requirement of Section 35-2076, and has satisfied Chapter 245's dormancy provisions by virtue of the submittal and approval of the Shaenfield Plat. Therefore, our Firm requests that the COSA acknowledge vested rights as of March 2, 2001 for a commercial/retail development by virtue of POADP #772 and the Shaenfield Plat, as applied to Vested Rights Permit No. 04-04-106, or the new Vested Rights Application attached hereto.

In the alternative, this correspondence shall serve as an appeal of the Department's determination in regards to the validity of Vested Rights Permit No. 04-04-106, in accordance with Section 35-712(d) of the UDC. The analysis confirming vested rights in the new Vested Rights Application, as set forth above, is identical to that advanced for the previously-issued Vested Rights Application No. 04-04-106. Because the analysis has not changed, and the Department has already rejected such analysis, our Firm requests that this issue be immediately placed on the next available Planning Commission agenda, in compliance with the Texas Open Meetings Act. The otherwise necessary forty-five (45)-day review period should not be necessary because the Department has already performed a review in deciding not to recognize Vested Rights Application No. 04-04-106.

Included with this correspondence, please find the enclosed check for \$500.00 to cover the cost of processing this application.

Please do not hesitate to contact me should you have any questions regarding this matter.

Sincerely,

BROWN, P.C.

By:


Daniel Ortiz

Enclosures: As stated

BROWN, P.C.

Attorneys at Law

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112 E Pecan Street
 Suite 1490
 SAN ANTONIO, TEXAS 78205
 (210) 299-3704 Phone
 (210) 299-4731 Fax

LAND DEVELOPMENT
 SERVICES DIVISION

April 22, 2004

Via Hand Delivery

Mr. Michael Herrera
 Development Services Department
 City of San Antonio
 1901 S. Alamo, 2nd Floor
 San Antonio, Texas 78204

Via Hand Delivery

Mr. Norbert Hart
 City Attorney's Office
 City of San Antonio
 100 Military Plaza, 3rd Floor
 San Antonio, Texas 78205

Re: Vested Rights for that certain 99.4 acre Commercial tract of land located on
 F.M. 1604 between Culebra Rd. and Bulverde Crossing; My File No. 9001.002

Dear Messrs. Herrera and Hart:

This request is made pursuant to provisions of the City of San Antonio's Unified Development Code, Chapter 35, Article 7, Division 2, entitled "Vested Rights." Pursuant to Section 35-111(b)(2) and applicable provisions of the Texas Local Government Code, Chapter 245, I am submitting to you a copy of the Creamer Subdivision Preliminary Overall Area Development Plan, accepted by the City of San Antonio on January 4, 2004 (COSA POADP No. 772).

The 99.4 acre subject tract is legally described in the application attached hereto. The subject tract is included within the boundaries of the Creamer Subdivision Preliminary Overall Area Development Plan (see City of San Antonio POADP No. 772). The subject POADP remains valid unless a plat is not filed within eighteen (18) months from the date the POADP was accepted (see City of San Antonio POADP status matrix). The subject POADP was submitted to the City of San Antonio on March 2, 2001. The Creamer Subdivision POADP was the first permit of permits necessary to develop the subject property. A zoning application was submitted to the City of San Antonio to rezone the subject property in early 2000. The subject property was rezoned by the City Council on March 9th of 2000 (see City of San Antonio Ordinance No. 91396). The subject property was rezoned from "R-1" Single Family Residence

Mr. Michael Herrera
Mr. Norbert Hart
April 22, 2004
Page 2

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District to "B-2" Business District and "B-3" Business District. The subject zoning designations were subsequently converted to "C-2" and "C-3". The property owner has also obtained an access authorization letter from the Texas Department of Transportation. Said letter is dated February 17, 2002.

Please note that the "project" for which this permit was sought is the development of the subject property for Commercial Retail purposes. The submittal and acceptance of the Creamer Subdivision Preliminary Overall Area Development Plan was a necessary first step in the development of this property for Commercial Retail purposes. Therefore, I am requesting that the City acknowledge that this property is vested by the subject permit referenced herein, with the right to be developed under the City's development regulations that were in effect on or before March 2, 2001. Included with this correspondence, please find enclosed a check for \$160.00 to cover the cost of processing this application and duplicate copies of the following:

1. Accepted Creamer Subdivision Preliminary Overall Area Development Plan (City of San Antonio POADP No. 772);
2. Vested Rights Permit Application;
3. City of San Antonio POADP Application for the Creamer Subdivision POADP;
4. City of San Antonio MDP/POADP status matrix; and
5. City of San Antonio Ordinance No. 91396.

In closing, I wish to thank you for your kind consideration to this matter. Please do not hesitate to contact me should you have any questions regarding this matter.

Sincerely,

BROWN, P C.

BY:


Kenneth W. Brown

KWB/mjh
Enclosures: As stated



City of San Antonio
Development Services Department
Vested Rights Permit Application
Completeness Review

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Note: All Applications must comply with the Unified Development Code (UDC), Section 35-B124 Vested Rights Determination for the City of San Antonio.

LAND DEVELOPMENT
SERVICES DIVISION

Required Items: Section 35-B124. Vested Rights' Determination

An Application for a Vested Rights Determination shall be made by the Applicant on a form established for such purpose and provided by the City and shall contain at least the following information:

1. Appropriate filing fee.
2. Section 35-B124
 - (a) Name and address of Applicant;
 - (b) Project description and name of subdivision or development, if applicable;
 - (c) Location of development;
 - (d) Total land area, in square feet;
 - (e) Total area of impervious surface, in square feet;
 - (f) Number of residential dwelling units, by type;
 - (g) Type and amount of non-residential square footage;
 - (h) Phases of the development, if applicable;
 - (i) Verified or certified copies of all development permits, contracts, appraisals, reports, correspondence, letters, or other documents or materials upon which the Applicant's claim for vested rights or equitable estoppel is based;
 - (j) A Sworn Statement, in a form prescribed by the City, and signed by the Applicant; and
 - (k) A legal description of the Property

In addition to the required processing as set forth above, an Application for Consent Agreement Approval shall include, but shall not be limited to the following:

- a timing and phasing plan for the proposed development;
- a plan for the provision of public facilities and services to the proposed development, by phase; the conditions under which the proposed development will be authorized to proceed;
- and the conditions under which approvals or permits will lapse or may be revoked.

A document shall be considered "verified" or "certified", whether an original or a copy, if it is signed by the official with decision making authority for the permit application."

☐ Accepted

☐ Rejected

Completeness Review By: _____ Date: _____

Permit File # _____



City of San Antonio
Development Services Department
Vested Rights Permit/Consent Agreement
APPLICATION

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SERVICES DIVISION

Permit File: # _____
Assigned by city staff

Date: _____

☐ Vested Rights Permit

☐ Consent Agreement

1. All applicable information on application must be legibly printed or typed for processing. If application is completed on behalf of the property owner please attach power of attorney or letter of agent.
2. Please complete subject of application and attach 2 sets of all applicable documents (i.e. this application, Master Development Plan, P.U.D. plan, plat application, approved plat, building permit) along with appropriate fee.

*Note: All Applications must comply with the Unified Development Code (UDC),
Section 35-B124 Vested Rights Determination for the City of San Antonio.*

(a) Owner/Agent: Kenneth W. Brown, Brown P.C.
Phone: 299-3704 Fax: 299-4731
Address: 112 E. Pecan St., Suite 1490
City: San Antonio State: Texas Zip code: 78205
Engineer/Surveyor: M.W. Cude Engineers, LLC
Address: 10325 Bandera Road
City: San Antonio State: Texas Zip code: 78250

(b) Name of Project: Creamer Subdivision

(c) (k) Site location or address of Project and Legal description:
99.4 acres of land in the City of San Antonio, NCB 17636, out of 109.80 acre tract
of land as described by Deed recorded in Vol. 8000, Pg. 564, Real Property
Records of Bexar County, Texas and out of the J.M. Ross Survey No. 229, Abstract
No. 648, County Block 4448, Bexar County, Texas.

VRP#07-01-022

Permit File # _____

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Council District 8 ETJ No Over Edward's Aquifer Recharge? () yes (x) no

3. What is the specific Project and the expected use(s) to be created by this Project (type of development, number of buildings, type of building(s), specific use(s) of those buildings, etc.)? *Please be aware that the city must understand exactly what this Project is expected to accomplish in order to evaluate this application.*

(d) Total land use, in square feet 4,329,298 sq. ft.

(e) Total area of impervious surface, in square feet 4,242,712 sq. ft.

(f) Number of residential dwellings units, by type; n/a

(g) Type and amount of non-residential square footage; "C-3" = 871,636 sq. ft.; "C-2" = 3,458,229

(h) Phases of the development, (If Applicable); 19 units

4. What is the date the applicant claims rights vested for this Project? March 2, 2001

(i) Verified or certified copies of all development permits, contracts, appraisals, reports, correspondence, letters, or other documents or materials upon which the Applicant's claim for vested rights or equitable estoppel is based;

In addition to the required processing as set forth above, an Application for Consent Agreement Approval shall include, but shall not be limited to the following: a timing and phasing plan for the proposed development; a plan for the provision of public facilities and services to the proposed development, by phase; the conditions under which the proposed development will be authorized to proceed; and the conditions under which approvals or permits will lapse or may be revoked. A document shall be considered "verified" or "certified", whether an original or a copy, if it is signed by the official with decision making authority for the permit application."

- 4 a. What, if any, construction or related actions have taken place on the property since that date?

5. By what means does the applicant claim rights vested for this Project? *Please specify all that may be applicable.*

• PERMIT

Type of Permit: POADP Date of Application: March 2, 2001

Permit Number: 772 Date issued: 1-4-04

Expiration Date: 7-5-05 Acreage: 99.4

VRP# 07-01-022

Permit File # _____

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• **MASTER DEVELOPMENT PLAN (MDP) (Formerly POADP)***

accepted prior to September 1, 1997 are subject to permit right conditions within 18 months from the effective date of the development rights ordinance (9/25/97) and projects submitted after September 1, 1997 are subject to 18 months for the POADP acceptance date.

LAND DEVELOPMENT
SERVICES DIVISION

Name: Creamer Subdivision POADP # _____

Date accepted: 1-4-04 Expiration Date: 7-5-05 MDP Size: 99.4 acres

• **P.U.D. PLAN**

Name: _____ # _____

Date accepted: _____

• **Plat Application**

Plat Name: _____ Plat # _____ Acreage: _____

Date submitted: _____ Expiration Date: _____

(Note: Plat must be approved within 18 months of application submittal date).

• **Approved Plat**

Plat Name: _____ Plat # _____ Acreage: _____ Approval

Date: _____ Plat recording Date: _____ Expiration Date: _____ Vol./Pg. _____

(Note: If plat is not recorded within 3 years of plat approval permit rights will expire).

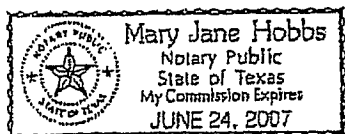
• **Other**

NOTE: Filing a knowingly false statement on this document, or any attached document, is a crime under §37.02 and §37.10 of the Texas Penal Code, punishable as a state jail felony by up to two years in jail and fine of up to \$10,000.

I hereby certify that all information this Application and the attached documents is true and correct and that it is my belief the property owner is entitled to Vested Rights for this Project.

Print name: Kenneth W. Brown Signature: [Signature] Date: April 23, 2004

Sworn to and subscribed before me by Kenneth W. Brown on this 23rd day of April in the year 2004, to certify which witness my hand and seal of office.



Mary Jane Hobbs
Notary Public, State of Texas

VRP#07-01-022

Permit File # 04-04-106

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City of San Antonio use

Permit File: # 04-04-106
Assigned by city staff

Date: _____ LAND DEVELOPMENT
SERVICES DIVISION

☒ Approved

☐ Disapproved

Review By: WAL
Development Services Department

Date: 5/27/04

Comments: As of MARCH 2, 2001

(Application SUBMITTED PRIOR TO
Adoption OF 2001 UDC)

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VRP#07-01-022



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City of San Antonio, Texas
Department of Development Services



February 2, 2007

LAND DEVELOPMENT
SERVICES DIVISION

Daniel Ortiz
Brown, P. C. Attorneys at Law
112 E. Pecan Street, Suite 1490
San Antonio, TX 78205

RE: Vested Rights for the Creamer Subdivision POADP #772, a 99.40-Acre Tract of Land
Located on Loop 1604, North of the Intersection of Culebra Road, San Antonio, Bexar
County, Texas (the "Subject Property"); Our File No. 9001.002

Dear Mr. Ortiz:

We have reviewed your application for Vested Rights that was submitted on January 31, 2007. Based on the information that was submitted the application was neither approved nor denied at this time; it is requested that the applicant please provide the following information:

A Fair Notice Form in compliance with Sec. 35 – 410 of the Unified Development Code.

All appeals and resubmittals must be filed with the Director of Development Services within fifteen (15) calendar days from the date the applicant is notified of the adverse decision or action taken under these requirements. Appeals and resubmittals made after fifteen (15) calendar days will not be accepted. If you have any further questions please contact Michael Herrera at 207-7038.

Sincerely,

Fernando J. De León, P.E.
Interim Assistant Director Development Services Department
Land Development Division

KENNETH W. BROWN AICP
DANIEL ORTIZ
PATRICK W. CHRISTENSEN
CONNIE L. BASEL



112 E. PECAN STREET
SUITE 1490
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210 298 3704
FAX: 210 298 4731

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PAUL M. JUAREZ
OF COUNSEL

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SERVICES DIVISION

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February 16, 2007

Via Hand-Delivery

Mr. Roderick J. Sanchez, AICP
Interim Director
Development Services Department
City of San Antonio
1901 S. Alamo, 2nd Floor
San Antonio, TX 78204

Re: Appeal of the Development Services Department's Determination Regarding the Completeness Review for Vested Rights Permit No. 07-01-022 in connection with a 99.40-Acre Tract of Land Located on Loop 1604, North of the Intersection of Culebra Road, San Antonio, Bexar County, Texas (the "Subject Property"); *Our File No. 9001.002*

Dear Mr. Sanchez:

This correspondence is submitted in accordance with Section 35-712(d) of the City of San Antonio (the "COSA") Unified Development Code ("UDC"). On January 31, 2007, our Firm requested that the COSA (re)acknowledge vested rights as of March 2, 2001 for a commercial/retail development by virtue of Creamer Subdivision Preliminary Overall Development Plan No. 772 ("POADP No. 772") and the Shaenfield Ten Commercial Subdivision Plat #050209 (the "Shaenfield Plat"). Please note that COSA already acknowledged vested rights for the Subject Property once before based on POADP No. 772 and the Shaenfield Plat (*see* Vested Rights Permit No. 04-04-106). On February 2, 2007, correspondence was received from the Development Services Department (the "Department"), requesting that a Fair Notice Form be submitted in accordance with an ordinance adopted by the COSA on February 16, 2006 (the "Fair Notice Ordinance") (*see Exhibit 1*). Accordingly, this correspondence shall serve as an appeal of the Department's determination regarding whether the application submitted for Vested Rights Permit No. 07-01-022 is "administratively complete" (*see Exhibit 2*). However, because the project associated with Vested Rights Permit No. 07-01-022 has vested rights as of March 2, 2001, the vested rights analysis itself (set forth below) will also need to be considered in this appeal.

I. VESTED RIGHTS

The Subject Property is a 99.40-acre tract of land, more particularly described as POADP No. 772. Said POADP No. 772 was filed with the COSA on March 2, 2001 (*see Exhibit 3*), and was ultimately "accepted" (or, approved) by the COSA on January 4, 2004 (*see Exhibit 4*). The development described by POADP No. 772 is a commercial/retail development (the "Subject Project"). POADP No. 772 is a required "permit" by a regulatory agency (i.e. the COSA) and,

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therefore, qualifies as the first "permit" in a series of permits necessary for the development of the Subject Project as those terms are intended by Chapter 245 of the Texas Local Government Code ("Code").

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DIVISION

Section 35-2076 ("Terms of Validity") of the COSA Code of Ordinances in effect on March 2, 2001 mandates that a POADP "shall become invalid if a plat is not *filed* within eighteen (18) months from the date the POADP is *accepted*" (emphasis added) (see Exhibit 5). Although the current COSA UDC requirements for maintaining the validity of a POADP are somewhat more demanding (see Exhibit 6), applying such requirements to a POADP that was submitted *prior* to the adoption of the current UDC clearly undermines the intent of Chapter 245 of the Code. The same is true of the more demanding requirements for maintaining the validity of a POADP set forth in the former Development Rights Ordinance (see Exhibit 7). As you know, COSA adopted the Developmental Rights Ordinance in 1997 because the Texas Legislature inadvertently repealed the then "vested rights" provisions in state law. In 1999 the Texas Legislature reenacted the state law provisions for "vested rights" for a project in progress before, on, or after September 1, 1997, by adopting Chapter 245 of the Code (see Exhibit 8). Therefore, the Subject Property's "vested rights" should be assessed based upon the requirements of Chapter 245 of the Code, which triggers only the platting requirements of Section 35-2076 as it read on March 2, 2001.

Further, POADP No. 772 did not expire due to COSA's approval of the Shaenfield Plat on June 21, 2005, which satisfied the applicable requirements of Section 35-2076 (see Exhibit 9). Nor has the Subject Project become "dormant," as defined by Section 245.005 of the Code and Section 35-717(c) of the UDC. Section 35-717(c) of the UDC provides that a project is in progress if within five (5) years after the filing of the application, progress towards completion has been demonstrated. Such progress is defined as submitting an application for a plat or plan, the filing of a permit, incurring infrastructure costs, posting a bond with a regulatory agency, or the payment of impact fees. Progress for the Subject Project was satisfied by the filing, approval, and recording of the Shaenfield Plat, all of which occurred within five (5) years of the initial application date for POADP No. 772.

To better illustrate the above, the following timeline is presented:

September 25, 1997	The Development Rights Ordinance was adopted because the Texas Legislature inadvertently repealed the Vested Rights Statute during the previous legislative session.
May 11, 1999	House Bill 1704 ("HB 1704"), adopted by the 76 th Texas Legislature, became effective (as codified in Chapter 245 of the Texas Local Government Code). <i>HB 1704 re-established statutory vested rights for a project in progress before, on, or after September 1, 1997.</i>
March 2, 2001	The original application for a permit was filed (i.e. the application for POADP No. 772) pursuant to Sections 245.001 and 245.002(a) of the Code.
May 3, 2001	Validation criteria is <i>first implemented</i> for a POADP as set forth in Section 35-412(h)(1)(A) of the UDC.

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Finally, on May 27, 2004, the COSA acknowledged vested rights derived from Chapter 245 of the Code for the Subject Property based upon the analysis set forth herein. Such acknowledgement was specifically stated in Vested Rights Permit No. 04-04-106, which recognized vested rights for the Subject Property as of March 2, 2001 (*see Exhibit 10*).
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SERVICES DIVISION

When taken together, POADP No. 772 constitutes a "permit" as defined by Chapter 245 of the Code, and was a necessary first step in the development of the Subject Property. POADP No. 772 has satisfied the applicable eighteen (18) month validity requirement of Section 35-2076, and has satisfied Chapter 245 of the Code's dormancy provisions by virtue of the submittal and approval of the Shaenfield Plat. Therefore, the Subject Project has vested rights as of March 2, 2001, rendering it "grandfathered" from the Fair Notice Ordinance, which was not adopted until February 16, 2006.

II. FAIR NOTICE ORDINANCE

Relevant to this discussion is the substantive nature of the Fair Notice requirement. First, Chapter 245 of the Code applies to all governmental regulations, rules or requirements, regardless of the substantive or procedure character. In fact, the key provision in Chapter 245 of the Code mandates:

Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any *orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements* in effect at the time the original application for the permit is filed. . . . or a plan for development of real property or plat application is filed with a regulatory agency. (emphasis added).¹

When considering the common understanding of the terms "*orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements*,"² it can be readily seen that these terms are broad and would include virtually any governmental regulation, regardless of whether it is procedural or substantive in nature.

Notwithstanding the potentially broad scope of Section 245.002 of the Code, the context of the entire Chapter should also be considered.³ Of specific relevance is Section 245.004 of the Code, which outlines certain exemptions in which the Vested Rights afforded by Chapter 245 of the Code will not apply. Although certain procedures were excluded from the recognition of vested rights,

¹ TEX. LOC. GOV'T. CODE ANN. 245.002(a) and (b).

² All of these terms relate to "a body of rules of action or conduct prescribed by controlling authority and having binding legal force." BLACK'S LAW DICTIONARY 795 (5th ed. 1979). An "order" denotes "a mandate or direction authoritatively given such as a rule or regulation." *Id.* at 988. A "regulation" is a "rule or order prescribed by government." *Id.* at 1156. An "ordinance" is "a rule established by authority." *Id.* at 988. A "rule" is "an established standard." *Id.* at 1195. An "expiration date" is a date identifying the lapse of time." *Id.* at 519. A "requirement" denotes "a demand or instruction" *Id.* at 1172.

³ *Bridgestone/Firestone, Inc. v. Glyn-Jones*, 878 S.W.2d 132, 133 (Tex. 1994); *Berel v. HCA Health Servs. of Texas, Inc.*, 881 S.W. 21, 25 (Tex. App.—Houston [1st Dist.] 1994, writ denied).

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these exclusions are limited to building permits and fees.⁴ It is a well-settled rule of statutory construction that express mention or enumeration of a thing of consequence or class is equivalent to an express exclusion of all others.⁵ When specific exclusions or exception to a statute are stated by the legislature, the intent is usually clear that no others shall apply.⁶ Accordingly, the doctrine of Vested Rights cannot be applied to laws, ordinances, procedures, rules, or regulations adopting building, design and construction standards, and the prevention of the imminent threat of property destruction or injury, or fees for development permits.⁷ Chapter 245 of the Code, however, can be used to protect land entitlements from any other procedural regulation not otherwise listed. Unless a procedural or substantive requirement falls within the ambit of Section 245.004, vested rights as set forth in Chapter 245 of the Code will apply to any governmental regulation, rule, or requirement, to include any ordinance adopted by the COSA. As such, the March 2, 2001 "vesting date" exempts the project from the COSA's Fair Notice Ordinance.

Notwithstanding the foregoing, the fair notice requirement is substantive in nature. Texas law is clear that substantive law (i) fixes the primary rights and duties of the parties and (ii) defines the remedy for the breach of these duties and rights.⁸ Whereas, procedural law is simply the provisions that govern the process by which substantive rights are made effective.⁹ Chapter 245 of the Code makes clear that "[r]ights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought (emphasis added).¹⁰ In breaking this provision down to its basic elements, the primary rights and duties of a project (i.e. vested rights) is fixed upon the following: (i) a filing, and (ii) fair notice of the project. Therefore, Chapter 245 of the Code exemplifies that the overall concept of fair notice is a substantive requirement.

The COSA has carried out this concept in its adoption of a Fair Notice Ordinance. Said ordinance is likewise a substantive requirement because it fixes the development rights in connection with a particular tract of property. Specifically, Section 35-B132 of the UDC fixes the specific lot layout, general building footprint, square footage, impervious cover and land use for the development of the property, as does the requirement to submit a site plan. Any subsequent change to the number of buildings or square footage destroys vested rights for the project. Although the mere submission of a form could be construed as a procedural requirement, fixing the specific uses for a property in this manner constitutes a substantive requirement as defined above.

III. CONCLUSION

Based upon the analysis set forth above, the Subject Project has vested rights as of March 2, 2001, as previously acknowledged by the COSA pursuant to Vested Rights Permit No. 04-04-106. A regulatory agency (such as the COSA) can only consider the approval, disapproval, or conditional

⁴ TEX. LOC. GOV'T. CODE ANN. § 245.004(2).

⁵ *State v. Mauritz-Wells Co.*, 175 S.W.2d 238, 241 (Tex. 1943).

⁶ *Unigard Sec. Ins. Co. v. Schaefer*, 572 S.W.2d 303, 307 (Tex. 1978).

⁷ *Id.* § 245.004(1-11).

⁸ *McGilvray v. Moses*, 8 S.W.3d 761 (Tex.App. - Fort Worth 1999); see also *Missouri Pac. R.R. Co. v. Dallas County Appraisal Dist.*, 732 S.W.2d 717, 720-21 (Tex.App. - Dallas 1987, no writ).

⁹ *Id.*

¹⁰ TEX. LOC. GOV'T. CODE ANN. 245.002(a) and (b).

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approval of an application for a permit solely on the basis of any *orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements* in effect on March 2, 2001. The COSA's Fair Notice Ordinance was not adopted until February 16, 2006. As such, the March 2, 2001 "vesting date" exempts the project from the COSA's Fair Notice Ordinance. Ultimately, because the application for Vested Rights Permit No. 07-01-022 was recently returned for submission of a fair notice form as required by the Fair Notice Ordinance, the vested rights analysis will need to be considered by the Planning Commission prior to consideration of the completeness review.

The Planning Commission needs to consider this correspondence as an appeal of the outcome of a completeness review for Vested Rights Permit No. 07-01-022, but also as a simultaneous appeal of the overall vested rights associated with the Subject Project for the Subject Property. As described herein, the two issues are directly interrelated; one cannot be considered without discussing the other simultaneously. The requirement for a fair notice form as applied to the Subject Property simply cannot be determined until vested rights is considered and either acknowledged or denied. Only then can the completeness review (that turns on the applicability of the Fair Notice Ordinance to the Subject Project) be fully evaluated.

If you have any questions with regard to this matter, please do not hesitate to contact me.

Sincerely,
BROWN, P.C.

By: 

Kenneth W. Brown, ACP

Enclosures: As stated



City of San Antonio, Texas
Department of Development Services

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LAND DEVELOPMENT
SERVICES DIVISION

March 27, 2007

Connie Basel
Brown P.C. Attorneys at Law
112 E. Pecan, Suite 1490
San Antonio, TX 78205

RE: Vested Rights Permit File: # 07-01-022 (Creamer Subdivision)

Dear Ms. Basel:

We have reviewed your application for Vested Rights that was submitted on March 2, 2007. Based on the information provided the following are our official findings:

It is recommend that applicant submit a *Fair Notice Form* in compliance with Section 35-410 of the Unified Development Code. Notwithstanding the requirements of Ordinance No.2006-02-16-0241, recommendation is for denial of rights effective March 2, 2001. VRP # 04-04-106 is no longer valid based on Section 35-1027 of the 1987 Unified Development Code (UDC), which was in effect at the time POADP # 772 was submitted. When POADP # 772 was submitted only "*a*" (emphasis added) plat filed within 18 months was required to validate a POADP, Section 35-2076 of the 1987 UDC. However in accordance with Section 35-1027 permit rights expired 18 months after the acceptance of the POADP, without a final plat for eight (8) percent of the net area being approved. As a result permit rights expired January 4, 2006, including VRP # 04-04-106. Permit rights are not indefinite. Rights exist only as long as the underlying permit is valid and the rights are consistent with the applicable law.

All appeals and resubmittals must be filed with the Director of Development Services within fifteen (15) calendar days from the date the applicant is notified of the adverse decision or action taken under these requirements. Appeals and resubmittals made after fifteen (15) calendar days will not be accepted. If you have any further questions please contact Robert Lombrano at 207-5014.

Sincerely,

Fernando J. De León, P.E.
Assistant Director Development Services Department
Land Development Division



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CITY OF SAN ANTONIO
ROADP APPLICATION

The platting of property in two or more subdivision units requires the submission of a Preliminary Overall Development Plan, POADP, to be accepted for review a POADP shall comply with the provisions of ARTICLE II, Division 2 Preliminary Overall Development Plans of the San Antonio Unified Development Code and must be certified to contain the following:

Date Submitted: March 2, 2001 Name of POADP: Creamer Subdivision
 Owners: FCS Creamer LTD. Consulting Firm: M. W. Cnde Engineers, L. L. C.
 Address: 601 Sonoma Blvd Address: 10323 Bandera Rd
 City/State/Zip: San Antonio Texas 78258 City/State/Zip: San Antonio, Texas 78250
 School District: Northside L.S.D. Phone: (210) 681-2951
 Existing Zoning: B-2 and B-3 Proposed Zoning: B-2 and B-3

Site is over/within/includes: Edwards Aquifer Recharge Zone: ☐ Yes ☒ No
 Projected # of Phases: 22 ☒ Yes ☐ No
 San Antonio City Limits? ☒ Yes ☐ No
 Council District: 8
 Ferguson Map Grid: Pg. 546, D-7 & 8, C-8

Land area being plattd:	Lots	Acres
Single Family (SF)	<u>N/A</u>	<u>0</u>
Multi-family (MF)	<u>N/A</u>	<u>0</u>
Commercial and non-residential	<u>22</u>	<u>99.4</u>

Is there a previous POADP for this Site?	NO		
--	----	--	--

Name _____ No. _____

Is there a corresponding FUD for this site? Name _____ No. _____

Plats associated with this POADP or site? Name _____ No. _____

Contact Person and authorized representative:

Print Name: H. J. Buckley / Rick Sheldon

Signature: _____

Date: March 2, 2001Phone: (210) 490-2500Fax: (210) 490-4465

PAGE 1 OF 2

VRP#07-01-022

POADP Validation Provision at the time of submittal
of Creamer POADP

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SAN ANTONIO CODE

§ 35-2072

Sec. 35-2072. Scope.

The POADP shall be required in all instances when a tract of land within the city or its extra-territorial jurisdiction is platted or intended to be platted into two (2) or more units. In lieu of a POADP, the applicant may submit a preliminary PUD plan which includes all of the area to be platted into two (2) or more units.
(Ord. No. 65513, § 2(D), 8-13-87; Ord. No. 74489, § 1(A), 10-3-91)

Sec. 35-2073. Filing.

Six (6) prints of the POADP shall be filed with the planning department for review by city agencies and departments at the earliest possible date but no later than the application date for the letters of certification required by Article IV. Within twenty (20) work days of submittal, the director of planning shall provide a written response indicating whether or not the POADP complies with current regulations, the city master plan, and parts thereof. If the POADP is not in compliance, the applicant may work with staff to reach a mutually satisfactory resolution or appeal to the planning commission for a final decision.
(Ord. No. 65513, § 2(D), 8-13-87)

Sec. 35-2074. Review and acknowledgment.

No plat shall be considered filed until review and acceptance of the POADP is completed.
(Ord. No. 65513, § 2(D), 8-13-87)

Sec. 35-2075. Information required.

The POADP, as a minimum, shall include the following information:

- (a) Perimeter property lines
- (b) Name of the plan and the subdivisions.
- (c) Scale of map
- (d) Proposed land uses by location, type, and acreage
- (e) Existing and proposed circulation system of collector, arterial, and local type B streets (clearly identified), and their relationship to any adjacent major thoroughfares; and any proposed alternative pedestrian circulation system

Supp No 42

LAND DEVELOPMENT
SERVICES DIVISION

Contour lines at intervals no greater than ten (10) feet

(g) Ownership from title and/or city or county roads for adjacent properties and, if known, proposed development of such land

(h) Existing adjacent or perimeter streets (including right-of-way widths), intersections, and developments

(i) One hundred-year floodplain limits as identified from the most current Flood Insurance Rate Maps published by the Federal Emergency Management Agency for the City of San Antonio and/or the applicable county. In cases where the one hundred-year floodplain for a particular watercourse is not shown on the published FIRM, a professional engineer shall develop a preliminary one hundred-year floodplain for each watercourse serving a watershed in excess of one hundred (100) acres

(j) Location map indicating the location and distance of the POADP in relation to adjacent streets and at least two (2) major thoroughfares.

(k) Name and address of the developer
(Ord. No. 65513, § 2(D), 8-13-87; Ord. No. 86711, § 6, 9-25-87)

Sec. 35-2076. Terms of validity.

The POADP shall be maintained in the permanent files of the director of planning and shall be conformed to in processing subsequent unit plats. The POADP shall remain valid until all units contained in the POADP are completed or upon receipt of a proposal to modify the POADP filed by the developer. The POADP shall become invalid if a plat is not filed within eighteen (18) months from the date the POADP is accepted
(Ord. No. 65513, § 2(D), 8-13-87)

Sec. 35-2077. Revisions.

Revisions to a POADP may be made at any time by submission of a new POADP to the director of planning. Within fifteen (15) working days after filing of the proposed revisions, the

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EXHIBIT

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applicant within the time period allowed for review.

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(3) Basis for Statutory Rights. The following criteria will be used by the city in determining the existence of rights for projects initiated after September 1, 1997. The following permits may be relied on by a property owner or developer to establish permit rights for a project that is the subject of the permit. Provided, however, a minor plat that plats only easements shall not confer any rights. The rights acquired in reliance on one (1) of the types of permits indicated below will expire in five (5) years unless the action required to maintain rights is taken within the time frame indicated for each permit type and the project does not become dormant in accordance with V.T.C.A. Local Government Code Ch. 245 and this chapter. A property owner or developer may take advantage of changes to this chapter that enhance or protect the project, including changes that lengthen the effective life of the permit after the date the application for the permit was made, without forfeiting any rights under this chapter.

A. Master Development Plan (MDP)/Preliminary Overall Area Development Plan (POADP). Rights under V.T.C.A. Local Government Code Ch. 245 will be recognized on the project which is the subject of a MDP/POADP that has been approved by the city. A property owner or developer may elect to continue a project under the City Code provisions in effect on September 1, 1997 or to take advantage of changes to this chapter that enhance or protect the project without forfeiting any rights under this chapter provided that fair notice is provided with a MDP/POADP application in accordance with this chapter or by requesting recognition of rights for an existing and valid MDP/POADP and providing fair notice in accordance with this chapter. The rights recognized for projects located within an approved MDP/POADP will expire unless a final plat is approved within two (2) years from the approval of the MDP/POADP that plats, at least eight (8) percent of the net area of the POADP area or an expenditure of at least five hundred thousand dollars (\$500,000.00) in project expenses has been made if the master development plan is one thousand (1,000) acres or less or an expenditure of at least one million dollars (\$1,000,000.00) has been made if the master development is more than one thousand (1,000) acres.

Further, the rights for projects within an approved MDP/POADP will expire unless fifty (50) percent of the net area with the approved MDP/POADP is the subject of final plats or development within ten (10) years from the date of approval of the MDP/POADP. For a POADP existing prior to September 1, 1997 that meets the requirements of subsection 35-1027(i) of the 1987 UDC, the rights for projects will expire ten (10) years from the date of approval of the MDP/POADP or September 25, 2007, whichever is later. The remaining fifty (50) percent must obtain final plat approval or be developed within ten (10) years after the initial fifty (50) percent of the net area within the MDP/POADP has been platted or developed unless specific provisions to the contrary exist in an individual ordinance or city code provision, the filing of a minor amendment to a MDP/POADP, a plat or replat will not result in a loss of rights to the entire MDP/POADP, provided that the required area of acreage within the MDP/POADP platted or value of project expenses do not fall below the amounts indicated above as a result of the minor amendment, plat, or replat. A plat or replat that changes the project within a particular area of an MDP/POADP will cause rights for that area to terminate.

B. Plat Applications. Rights under V.T.C.A. Local Government Code Ch. 245 will be recognized for the project that is the subject of an application for a plat identification number/letters of certification that has been filed with the department of development services provided all necessary fees have been paid. The rights recognized for a project located within such a plat application will expire unless the plat application is heard by and approved by the director of

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- (5) Fees lawfully imposed by the city in connection with service of permit
- (6) Regulations to prevent imminent destruction of property or injury to persons;
- (7) Construction standards for public works located on public lands and easements;
- (8) Regulations for utility connections; or
- (9) Regulations for annexations

→ (d) *Basis for permit rights* The following criteria will be used by the city in determining the existence of rights for projects initiated after September 1, 1997. The following permits may be relied on by a property owner or developer to establish permit rights for property that is the subject of the permit. Provided, however, a minor plat that plats only easements shall not confer any permit rights. The permit rights acquired in reliance on one (1) of the types of permits indicated below will expire unless the action required to maintain permit rights is taken within the time frame indicated for each permit type:

- (1) *Preliminary overall area development plan (POADP).* Permit rights will be recognized on the property which is the subject of a POADP that has been approved by the city planning department. The permit rights recognized for property located within an approved POADP will expire unless a final plat is approved within eighteen (18) months from the approval of the POADP that plats, at least eight (8) percent of the net area of the POADP area OR that requires at least five hundred thousand dollars (\$500,000.00) in infrastructure expenses if the POADP is one thousand (1,000) acres or less or at least one million dollars (\$1,000,000.00) if the POADP is more than one thousand (1,000) acres.

Further, the permit rights for property within an approved POADP will expire unless fifty (50) percent of the net area within the approved POADP is the subject of final plats or development within ten (10) years from the date of approval of the POADP. The remaining fifty (50) percent must obtain final plat approval or be

developed within ten (10) years after the initial fifty (50) percent of the net area within the POADP has been platted or developed. Unless specific provisions to the contrary exist in an individual ordinance or City Code provision, the filing of an amending POADP, plat, or replat will not result in a loss of permit rights provided that the required area of acreage within the POADP platted or value of infrastructure expenses do not fall below the amounts indicated above as a result of the amendment or replat

- (2) *Plat applications* Permit rights will be recognized on the property that is the subject of a plat application that has been filed with the city planning department, provided all necessary platting fees have been paid. The rights recognized for property located within such a plat application will expire unless the plat application is heard by and approved by the director of planning or the planning commission within eighteen (18) months from the date the plat application is filed with the city planning department.
- (3) *Plats.* Permit rights will be recognized on the property which is the subject of a plat that has been approved by the city planning commission or director of planning. The permit rights recognized for property located within an approved plat will expire unless the plat is recorded in the Bexar County Deed Records within three (3) years from the date of approval by the city planning commission or director of planning
- (4) *Building permits.* A building permit may be relied on as a basis for permit rights for property identified in the site plan submitted to the city as part of the building permit application. However, rights that are based on a building permit will expire unless construction authorized by the building permit is begun within six (6) months from the date the building permit is issued.



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H.B. No. 1704

08 JAN 16 AM 10:10

LAND DEVELOPMENT
SERVICES DIVISION

relating to the approval of certain permit applications by local governments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. FINDINGS; INTENT. (a) The legislature finds that the former Subchapter I, Chapter 481, Government Code, relating to state and local permits, originally enacted by Section 1, Chapter 374, Acts of the 70th Legislature, Regular Session, 1987, and subsequently amended by Section 3 01, Chapter 4, Acts of the 71st Legislature, Regular Session, 1989, Section 2, Chapter 118, Acts of the 71st Legislature, Regular Session, 1989, and Section 1, Chapter 794, Acts of the 74th Legislature, Regular Session, 1995, was inadvertently repealed by Section 51(b), Chapter 1041, Acts of the 75th Legislature, Regular Session, 1997.

(b) The legislature finds that the repeal of former Subchapter I, Chapter 481, Government Code, which became effective September 1, 1997, resulted in the reestablishment of administrative and legislative practices that often result in unnecessary governmental regulatory uncertainty that inhibits the economic development of the state and increases the cost of housing and other forms of land development and often resulted in the repeal of previously approved permits causing decreased property and related values, bankruptcies, and failed projects.

(c) The legislature finds that the restoration of requirements relating to the processing and issuance of permits and approvals by local governmental regulatory agencies is necessary to minimize to the extent possible the effect of the inadvertent repeal of the former Subchapter I, Chapter 481, Government Code, and to safeguard the general economy and welfare of the state and to protect property rights.

(d) It is the intent of the legislature that no project, permit, or series of permits that was protected by former Subchapter I, Chapter 481, Government Code, be prejudiced by or required

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or allowed to expire because of the repeal of former Subchapter I or an action taken by a regulatory agency after the repeal

SECTION 2. AMENDMENT. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 245 to read as follows:

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CHAPTER 245. ISSUANCE OF LOCAL PERMITS

Sec. 245.001. DEFINITIONS. In this chapter:

(1) "Permit" means a license, certificate, approval, registration, consent, permit, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

(2) "Political subdivision" means a political subdivision of the state, including a county, a school district, or a municipality.

(3) "Project" means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

(4) "Regulatory agency" means the governing body of, or a bureau, department, division, board, commission, or other agency of, a political subdivision acting in its capacity of processing, approving, or issuing a permit.

Sec. 245.002. UNIFORMITY OF REQUIREMENTS. (a) Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the permit is filed.

(b) If a series of permits is required for a project, the orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project. All permits required for the project are considered to be a single series of permits. Preliminary plans and related subdivision

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LAND DEVELOPMENT
SERVICES DIVISION

plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

(c) After an application for a project is filed, a regulatory agency may not shorten the duration of any permit required for the project.

(d) Notwithstanding any provision of this chapter to the contrary, a permit holder may take advantage of recorded subdivision plat notes, recorded restrictive covenants required by a regulatory agency, or a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project, including changes that lengthen the effective life of the permit after the date the application for the permit was made, without forfeiting any rights under this chapter.

Sec. 245.003. APPLICABILITY OF CHAPTER. This chapter applies only to a project in progress on or commenced after September 1, 1997. For purposes of this chapter a project was in progress on September 1, 1997, if:

(1) before September 1, 1997:

(A) a regulatory agency approved or issued one or more permits for the project; or

(B) an application for a permit for the project was filed with a regulatory agency; and

(2) on or after September 1, 1997, a regulatory agency enacts, enforces, or otherwise imposes:

(A) an order, regulation, ordinance, or rule that in effect retroactively changes the duration of a permit for the project;

(B) a deadline for obtaining a permit required to continue or complete the project that was not enforced or did not apply to the project before September 1, 1997; or

(C) any requirement for the project that was not applicable to or enforced on the project before September 1, 1997.

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

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SERVICES DIVISION

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(B) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons:

(2) municipal zoning regulations that do not affect lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality;

(3) regulations that specifically control only the use of land in a municipality that does not have zoning and that do not affect lot size, lot dimensions, lot coverage, or building size;

(4) regulations for sexually oriented businesses;

(5) municipal or county ordinances, rules, regulations, or other requirements affecting colonias;

(6) fees imposed in conjunction with development permits;

(7) regulations for annexation;

(8) regulations for utility connections;

(9) regulations to prevent imminent destruction of property or injury to persons, including regulations effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy; or

(10) construction standards for public works located on public lands or easements.

Sec. 245.005. DORMANT PROJECTS. Notwithstanding any other provision of this chapter, after the first anniversary of the effective date of this chapter, a regulatory agency may enact an ordinance, rule, or regulation that places an expiration date on a permit if as of the first anniversary of the effective date of this chapter: (i) the permit does not have an expiration date;

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and (ii) no progress has been made towards completion of the project. Any ordinance, rule, or regulation enacted pursuant to this section shall place an expiration date of no earlier than the fifth anniversary of the effective date of this chapter. Progress towards completion of the project shall include any one or more of the following:

DEVELOPMENT
SERVICES DIVISION

- (1) an application for a final plat or plan is submitted to a regulatory agency;
- (2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- (3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
- (4) fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
- (5) utility connection fees or impact fees for the project have been paid to a regulatory agency.

Sec. 245.006. ENFORCEMENT OF CHAPTER. This chapter may be enforced only through mandamus or declaratory or injunctive relief.

SECTION 3. EFFECT OF PRIOR LAW. (a) The repeal of Subchapter I, Chapter 481, Government Code, by Section 51(b), Chapter 1041, Acts of the 75th Legislature, Regular Session, 1997, and any actions taken by a regulatory agency for the issuance of a permit, as those terms are defined by Section 245.001, Local Government Code, as added by Section 2 of this Act, after that repeal and before the effective date of this Act, shall not cause or require the expiration or termination of a project, permit, or series of permits to which Section 2 of this Act applies. An action by a regulatory agency that violates this section is void to the extent necessary to give effect to this section.

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LAND DEVELOPMENT
SERVICES DIVISION

SECTION 5. EFFECT ON COASTAL ZONE MANAGEMENT ACT. Nothing in this Act shall be construed to:

(2) apply to a permit, order, rule, regulation, or other action issued, adopted, or undertaken by a municipality, a county, another political subdivision, the state, or an agency of the state in connection with the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.) or its subsequent amendments or Subtitle E, Title 2, Natural Resources Code.

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LAND DEVELOPMENT
SERVICES DIVISION

President of the Senate

Speaker of the House

I certify that H.B. No. 1704 was passed by the House on April 21, 1999, by the following
vote: Yeas 140, Nays 5, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1704 was passed by the Senate on April 29, 1999, by the following
vote: Yeas 26, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor

VRP# 07 - 1 - 022

CITY OF SAN ANTONIO
COMMUNITY INITIATIVES
PLANNING COMMISSION
INTERDEPARTMENTAL MEMORANDUM

*Agenda
Item # 23*

TO: Planning Commission

FROM: Dennis J. Campa, Director, Department of Community Initiatives

CC: Frances A. Gonzalez, Assistant City Manager

SUBJECT: Haven for Hope Ground Lease Agreement

DATE: February 13, 2008

SUMMARY:

Briefing and consideration of a resolution authorizing the City to enter into a ground lease agreement with Haven for Hope, Inc., for the purpose of operating a transformational human services campus for the homeless, which includes conveying several warehouse buildings to Haven for Hope, Inc.

BACKGROUND:

On November 30, 2006, City Council approved the homeless campus conceptual plan. On March 28, 2007, the Planning Commission unanimously endorsed the proposed acquisition. Council approved the selected location on April 19, 2007. On September 6, 2007, City Council approved a property acquisition boundary reduction and zoning change.

POLICY ANALYSIS:

On February 14th the City Council will consider approval of a ground lease agreement with Haven for Hope for the purpose of operating a human services campus for the homeless. Once the ground lease agreement is finalized, Haven for Hope will renovate and construct the campus in its entirety. Through this agreement, ownership of several buildings will be transferred to the Haven for Hope. The transfer of ownership of these buildings constitutes a change in the original plan presented to the Planning Commission, where approval for property acquisition was given. By approving conveyance of these buildings, the City will enable Haven for Hope to more effectively engage in capital and operating campaign fundraising activities.

FISCAL IMPACT:


None

COORDINATION:

This item has been coordinated with the City Attorney's Office.

RECOMMENDATION:

Staff recommends approval and requests that the Planning Commission notify City Council of the action taken in this matter.


Dennis J. Campa, Director
Department of Community Initiatives

OVERLAND



INTERIM REVIEW
ONLY
DO NOT CONSTRUCT
BASED ON PRELIMINARY
DESIGN



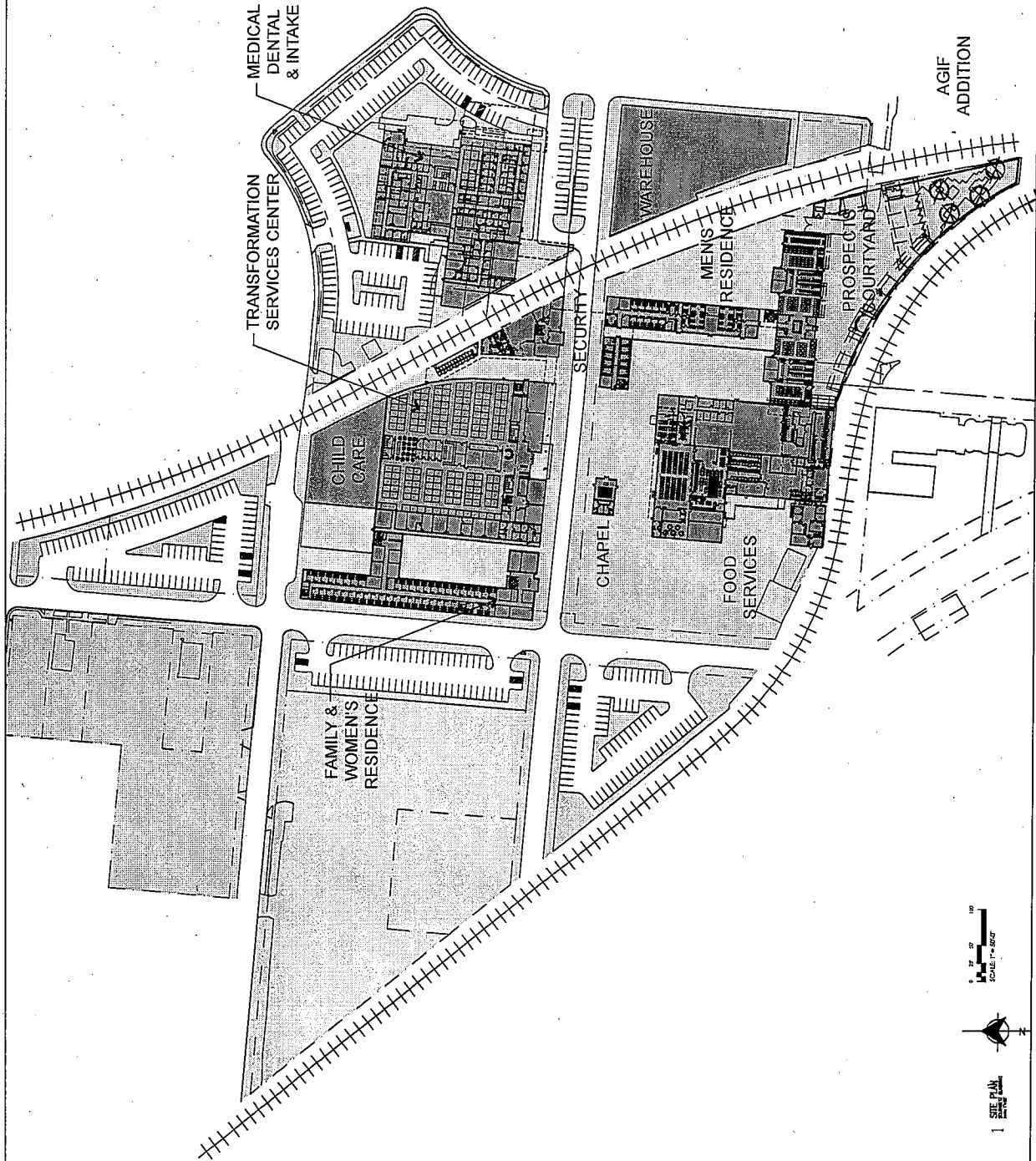
KEY PLAN
1/4" = 1' - 0"

HAVEN FOR HOPE
SAN ANTONIO, TEXAS

SECTION

DATE	10/10/10
BY	OC
CHECKED BY	OC
DESIGNED BY	OC
PROJECT NO.	101010101
CLIENT	HAVEN FOR HOPE
LOCATION	SAN ANTONIO, TEXAS
SCALE	1/4" = 1' - 0"

A100
1/4" = 1' - 0"



City of San Antonio Planning and Community Development Department
Plan Update Recommendation

Agenda Item # 24

IH10 E Corridor Perimeter Plan Update

Council District: 2

City Council Meeting Date: 3/6/08

Summary:

Neighborhood/Community/Perimeter Plan: **IH 10 E Corridor Perimeter Plan Update**

Background Information:

Applicant: City of San Antonio

Owner: Various

Plan Boundaries: The IH-10 East Perimeter Plan area is generally bound by Gibbs Sprawl and the San Antonio ETJ to the north, Cibolo Creek to the east, the San Antonio ETJ and FM 1346 to the south, and Loop 410 to the west.

Size: The Plan area is 56 square miles with 43 square miles of San Antonio ETJ and 13 square miles within the San Antonio City limits.

Current Land Use of site: Various

Adjacent Land Uses: Various

Issue:

Planning Process:

The IH 10 East Perimeter Plan Update was a partnership effort of the IH 10 East Planning Team, City of Kirby, City of Converse, City of Schertz, City of St. Hedwig and the City of San Antonio Planning & Community Development Department. The plan is the result of eight months of hard work by the Planning Team and other active residents and business people.

The IH 10 East Perimeter Plan was developed following the guidelines set out in the Community Building and Neighborhood Planning Program, adopted by City Council in October 1998 and further specified in Article IV of the Unified Development Code adopted in 2001 and amended in 2004.

Between June 2007 and February 2008 eight Planning Team workshops were held to draft the majority of the plan. The draft plan resulting from the workshops was submitted to relevant City departments to review the plan for consistency with City policies. Two public open houses were held on January 30 and February 9, 2008 to give community members an opportunity to review the proposed land use plan update. The documents were also made available for review and comment at three different locations from January 28th through February 9, 2008. The documents were also online in a "virtual open house" for review and comment.

The Planning & Community Development Department, together with the partnering neighborhoods, worked to encourage participation in the community planning process. The mailing list included over 1,345 homeowners, business owners, owners of commercial and vacant properties, and meeting attendees. A press release announced the open house. Media coverage of the open house included television stations and the San Antonio Express-News. A notice of the public hearing before Planning Commission was featured in the Commercial Recorder Newspaper.

Current Land Use:

The regional study area is 100 square miles incorporating Randolph Air Force Base, Martindale Army Air Field, portions of Bexar County, the Cities of Kirby, Converse, San Antonio, Schertz, and St. Hedwig. The regional study area is bound by the Union Pacific Railroad tracks, parallel to Gibbs Sprawl Road (FM 1976) to Loop 1604 along Seguin Road (FM 78) to the north, the Bexar County line, formed primarily of Cibolo Creek to the east, St Hedwig Road (FM 1346) to the south, and Loop 410 to the west.

City of San Antonio Planning and Community Development Department Plan Update Recommendation

The Plan area is the land that falls entirely in the San Antonio City limits and the San Antonio Extra-territorial Jurisdiction (ETJ), which is generally bound by Gibbs Sprawl and the San Antonio ETJ to the north, Cibolo Creek to the east, the San Antonio ETJ and FM 1346 to the south, and Loop 410 to the west. The planning area is rich in natural resources with six creeks spanning the area: Cibolo Creek, Escondido Creek, Martinez Creek, Rosillo Creek, Ackerman Creek, and Woman Hollering Creek. Four of the six Martinez Creek Watershed retention dams are in the Plan area as well. Much of the area south of IH 10 East is agricultural in nature. Large scale residential development is occurring throughout the area north of IH 10 East, and many well established neighborhoods are evident. Commercial uses are found along arterials and the IH 10 E corridor. Industrial uses prominent in the area are BFI Waste Services landfill and Lancer Corporation both southeast of Foster Road and IH 10 E and Cornerstone Industrial Park at the northeast corner of Loop 410 and IH 10 E.

The IH 10 East Perimeter Plan boundary is home to more than 29,166 residents according to the 2000 Census. This number represents an 88.5 percent increase in population from the 1990 Census data and is smaller than the growth rate the area experienced between 1980 and 1990 at 128.5 percent.

Key Changes to Plan:

Updates to the land use plan included: 1) the exiting land use map, 2) the future land use map, and 3) land use categories, descriptions, and corresponding zoning districts. The land use categories were updated to reflect current descriptions, and several land use categories were added: Business Park, Urban Living, Rural Living, and Agriculture.

Specific changes included expanding Community Commercial on Foster Road; an expanded Regional Commercial node at IH10 E and Loop 1604; additional locations for medium and high density land use based on current trends; a business park land use south of Kirby; addition of Urban Living along IH10E; and the addition of Rural Living and Agriculture uses adjacent to Saint Hedwig.

Recommendation:

STAFF RECOMMENDATION:

☒ Approval

☐ Denial

☐ Alternate Recommendation:

Comments:

PLANNING COMMISSION RECOMMENDATION:

Meeting & Public Hearing Date: February 13, 2008

☐ Approval

☐ Denial

☐ Resolution Attached

Newspaper Publication Date of Public Hearing: January 25, 2008

No. Notices mailed 10 days prior to Public Hearing: 1,345

Registered Neighborhood Association(s) Notified: Eastgate, Sunrise, Candlewood, Woodlake, Highland Farms, Estates-Mission Hills, Ventura, POA of Northhampton, Meadowbrook, Brentfield, Fairways of Woodlake

Comments:

Planning Department Staff:

T.C. Broadnax, Interim Planning Director

Patrick Howard, AICP, Assistant Director

Nina Nixon-Mendez, AICP, Planning Manager

Case Managers: Andrea Gilles, Zenon Solis, Tamara Palma

RESOLUTION NO.

RECOMMENDING TO APPROVE/DENY AN AMENDMENT TO UPDATE THE LAND USE ELEMENT OF THE IH 10 E CORRIDOR PERIMETER PLAN TO CITY COUNCIL TO BECOME A COMPONENT OF THE CITY'S COMPREHENSIVE MASTER PLAN AS IT CONFORMS TO THE APPROVAL CRITERIA SET FORTH IN THE UNIFIED DEVELOPMENT CODE, §35-420, PERTAINING TO "COMPREHENSIVE, NEIGHBORHOOD, COMMUNITY, AND PERIMETER PLANS."

WHEREAS, the 1997 Master Plan Neighborhood Goal 2 calls for strengthening neighborhood plans; and

WHEREAS, the San Antonio Planning Commission has approved the 1998 Community Building and Neighborhood Planning Program; and

WHEREAS, the *Unified Development Code* (adopted May 3, 2001), §35-420, sets forth provisions for the development and approval of Comprehensive, Neighborhood, Community and Perimeter Plans and requires the Plan shall be reviewed by the planning commission at least once every five years; and

WHEREAS, the San Antonio Planning Commission has reviewed the amendment to update the land use element of the IH 10 E Corridor Perimeter Plan and found the amendment to be **CONSISTENT/INCONSISTENT** with City policies, plans and regulations and in conformance with the *Unified Development Code*, §35-420, therefore meeting all requirements; and

WHEREAS, the San Antonio Planning Commission held a public hearing on February 13, 2008 and **APPROVED/DENIED** the amendment; and

WHEREAS, the San Antonio Planning Commission made a finding that _____ and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:

SECTION 1: The amendment to update the land use element of the IH 10 E Corridor Perimeter Plan attached hereto and incorporated herein by reference is to be submitted to the City Council with this Commission's recommendation for **APPROVAL/DENIAL** by the City Council that it be adopted as a component to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 13th DAY OF FEBRUARY, 2008.

Approved:

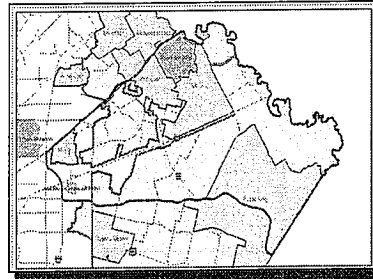
Murray H. Van Eman, Chairperson
San Antonio Planning Commission

Attest:

Executive Secretary
San Antonio Planning Commission

IH 10 East Perimeter Plan Update

**Planning Commission
February 13, 2008
Agenda Item No. XX**



1

Briefing Purpose

- Purpose of this briefing is to provide you with background and recommendation for the Future Land Use Plan Update of the IH 10 East Perimeter Plan

2

Update Purpose

- The Unified Development Code (UDC) section §35-420 (g)(2) states that Neighborhood and Community plans shall be reviewed by Planning Commission at least once every 5 years.
 - The IH 10 East Perimeter Plan was first adopted by City Council on February 22, 2001.

3

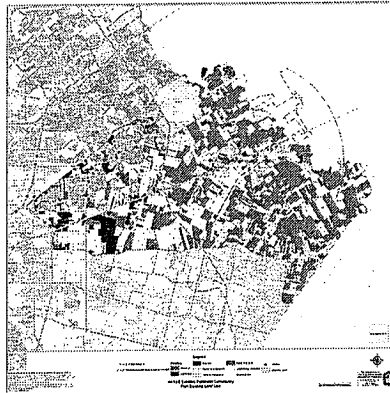
Approval Criteria

- According to UDC section §35-420 (g)(2), Planning Commission will also determine if the Plan:
 - Identifies goals that are consistent with adopted City Policies, and regulations.
 - Was developed in an inclusive manner to provide opportunities for all interest groups to participate.
 - Is a definitive statement of the community and is appropriate for consultation and reference as a guide by the City Council, Departments.

4

Planning Area Location and Size

- North: Gibbs Sprawl Rd. and San Antonio ETJ
- East: Cibolo Creek
- South: San Antonio ETJ and FM 1346
- West: Loop 410
- Population: 29,166
- 56 Square Miles



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Plan Update Process

- Planning Team Meetings:
 - 8 Planning Team Meetings were held between June 25, 2007 and December 3, 2007
- Open House –
 - January 30, 2008 (10+ in attendance)
 - February 9, 2008
- Media Coverage provided by Univision 41, KSAT 5, and Express News
- Interdepartmental Review, January 30, 2008

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Community Outreach

- In addition to the approximately 1,345 mailers sent out to the community, there was a press release for the open house, and a notice of the public hearing was featured in the Commercial Recorder Newspaper.
- The open house also included comment cards to provide input on the plan.
- The Planning Document was available at 2 libraries and the Police Substation for the area

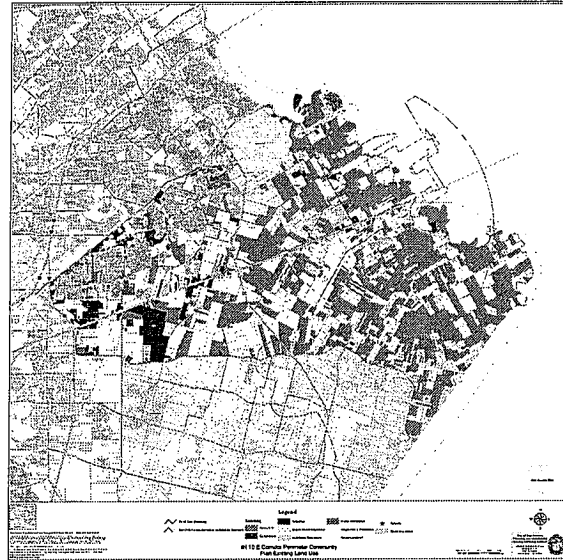
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Land Use Plan Update

- The update consists of 3 main items:
 - Existing Land Use Map
 - Future Land Use Plan Update
 - Added Land Use Categories and Descriptions

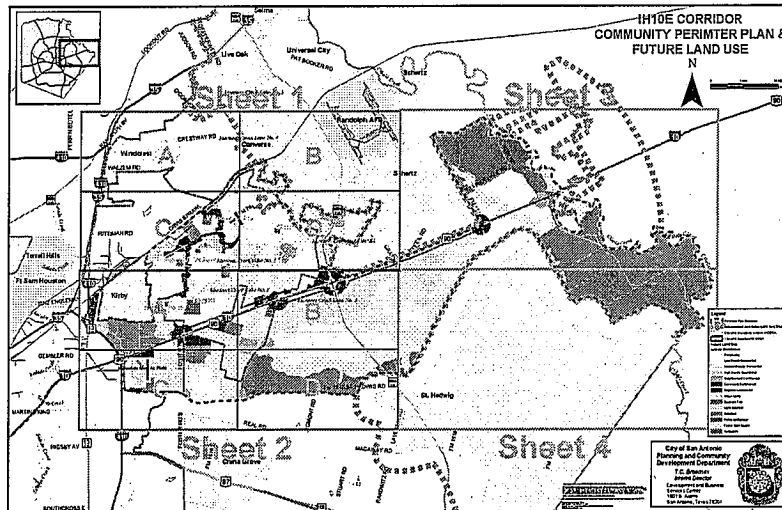
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Existing Land Use



9

Future Land Use Update



10

Goals

- Goal 1: Improve the Infrastructure
- Goal 2: Provide accessibility to neighborhoods
- Goal 3: Quality of Life
- Goal 4: Improve the Corridor
- Goal 5: Parkland and Recreational Facilities

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Key Changes in Population

- From 1990 to 2000 the population in this area grew at a rate of 88.5 percent.
- From 1980 to 1990 the population in this area grew at a rate of 128.5 percent.
- More than 3,352 housing units were added to the planning area between 1980 and 1990; the growth rate for this area was 5 times the City average
- In 2000, there were 9,488 housing units; which is a 68.7 percent increase.

12

Key Changes to Plan

- Added Rural Living, Urban Living, Agriculture, and Business Park Land Use Categories
- Provided for Business Park south of Kirby
- Expanded Agriculture Land Use adjacent to Saint Hedwig
- Expanded Urban Living adjacent to IH 10

13

Key Changes in Plan

- Increase in Medium and High Residential land uses
- Expanded Community Commercial on Foster Rd.
- Expanded regional node at IH 10 and Loop 1604
- Identified 2 sites for Regional Park support

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Plan Update Benefits

- Plan is up to date with community and City long range goals
- Plan is now easier to interpret and utilize as a decision making guide
- Planning Team is re-organized and empowered for plan implementation

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Coordination

- Municipalities that participated in the Planning Process:
 - City of Converse
 - City of Kirby
 - City of Schertz
 - City of Saint Hedwig

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Next Steps

- **February 13, 2008 - Planning Commission - Public Hearing**
- **March 6, 2008 - City Council**

Staff recommends approval.

City of San Antonio Planning and Community Development Department
Plan Amendment Recommendation *Agenda Item # 25*

Plan Amendment Application Case No.: 08012

Council District: 1

City Council Meeting Date: 3/20/2008

Plan Amendment Map – Attachment 1
☒ Digital Ortho Image – Attachment 2

Summary:

Neighborhood/Community/Perimeter Plan: **North Central Neighborhoods Community Plan**
The applicant requests to amend the Land Use Plan designation from **Low Density Residential** to **Neighborhood Commercial**.

Background Information:

Applicant: Chavira, Jesus
Owner: Chavira, Jesus
Property Location: 866 Lee Hall
Acreage: 0.20
Current Land Use of site: Residential
Adjacent Land Uses:
N: Low Density Residential
E: Low Density Residential
S: Office
W: Commercial

Issue:

LAND USE ANALYSIS:

Definitions:

The North Central Neighborhoods Community Plan designates *Low Density Residential* land use for the subject parcel. Low Density Residential supports the principles of concentrating urban growth, reinforcing existing neighborhoods, and supporting residential growth within walking distance of neighborhood commercial centers and schools. This development should be oriented toward the center of the neighborhoods and away from traffic arterials. Low Density Residential areas are composed mainly of single family dwellings on individual lots. This classification describes established residential neighborhoods of low to medium density, and supports compatible in-fill development. Duplexes and accessory dwellings (carriage houses, granny flats, etc.) are allowed on lots of 8,000 square feet or greater.

The proposed Neighborhood Commercial provides small areas for offices, professional services, service and shop front retail uses that can be served by pedestrian access. Neighborhood Commercial should have a service area radius of approximately a half-mile, and should serve a population of approximately 2,000 to 5,000 people. It permits a limited group of commercial uses that serve the neighborhood while protecting the abutting residential areas. Neighborhood Commercial should be located at the intersection of a collector and arterial street or where an existing commercial area has been established. Examples of Neighborhood Commercial services are small gasoline service stations and convenience/food stores, restaurants, neighborhood shopping centers, medical clinics, day care centers, bed and breakfasts, rooming houses, social assistance services, and office or bank buildings (stand alone).

**City of San Antonio Planning and Community Development Department
Plan Amendment Recommendation**

Analysis:

Goal 2 in the plan calls for an establishment of neighborhood friendly businesses along Blanco Rd. This business is a Tile Contractor business and does not qualify as a neighborhood friendly business as it is not a business serving the neighborhood. Businesses such as dry cleaners, banks, cafes, and neighborhood shopping centers qualify as neighborhood friendly.

Goal 3 in the plan calls for the maintenance and preservation of the quality of the existing residential properties. Goal 4 states that there should be a buffer between commercial and residential properties. This is further explained in objective 4.1, where it is explicitly stated "to discourage encroachment of businesses into existing residential neighborhood". Since this property is located in an established neighborhood, where residential integrity is strong, a commercial use would contribute to encroachment on the neighborhood.

There are commercial uses west of the property on the other side of Blanco, which is in the Greater Dellview Neighborhood Plan. Blanco Rd. and Edison Dr. serve as a boundary between the residential and the commercial uses on Blanco Rd. The office use south of the subject property serves as a transitional use between commercial and residential uses. This property is located within the neighborhood boundary and the transitional use.

Upon visiting the subject property, it was noted that materials and machinery was being stored onsite. This storage use is intrusive to the neighbors and too intensive a use to be in a neighborhood.

☐ Minimal Impact ☐ Impact can be mitigated ☒ Significant Impact - Incompatible Land Use

TRANSPORTATION/INFRASTRUCTURE ANALYSIS:

Major Thoroughfare Plan Designations: Blanco Road is a Secondary Arterial Type B (70' - 86' ROW).

Other streets: Lee Hall is a residential street. A commercial use on this property will contribute to cut-thru traffic on residential streets.

Comments:

☒ Minimal Impact ☐ Impact can be mitigated ☐ Significant Impact to Transportation Capacity

COMMUNITY FACILITIES ANALYSIS:

Nearby Public Facilities: Edison High School is approximately 700 ft. south of the property. Rogers, St. John Evangelist, and San Antonio School for Inquiry and Creativity Schools are all within 3500 ft. of the property.

Comments:

☒ Minimal Impact ☐ Impact can be mitigated ☐ Significant Impact to Community
Facilities Capacity

Recommendation:

STAFF RECOMMENDATION:

☐ Approval ☒ Denial ☐ Alternate Recommendation:

Comments:

**City of San Antonio Planning and Community Development Department
Plan Amendment Recommendation**

PLANNING COMMISSION RECOMMENDATION:

Meeting & Public Hearing Date: February 13, 2008

☐ Approval

☐ Denial

☐ Resolution Attached

Newspaper Publication Date of Public Hearing: 1/24/2008

No. Notices mailed 10 days prior to Public Hearing: 96

Registered Neighborhood Association(s) Notified: Edison, Northwest Los Angeles Heights, and Northmoor

Comments:

ZONING COMMISSION SUPPLEMENTAL INFORMATION:

Current zoning district: R-6 S

Proposed zoning district: C-2 CD

Coordinating Zoning Case Number: Z2008079

Zoning Commission Public Hearing Date: 2/19/08

☐ Approval

☐ Denial

Planning Department Staff:

Patrick Howard

Assistant Planning Director

Nina Nixon-Mendez, AICP

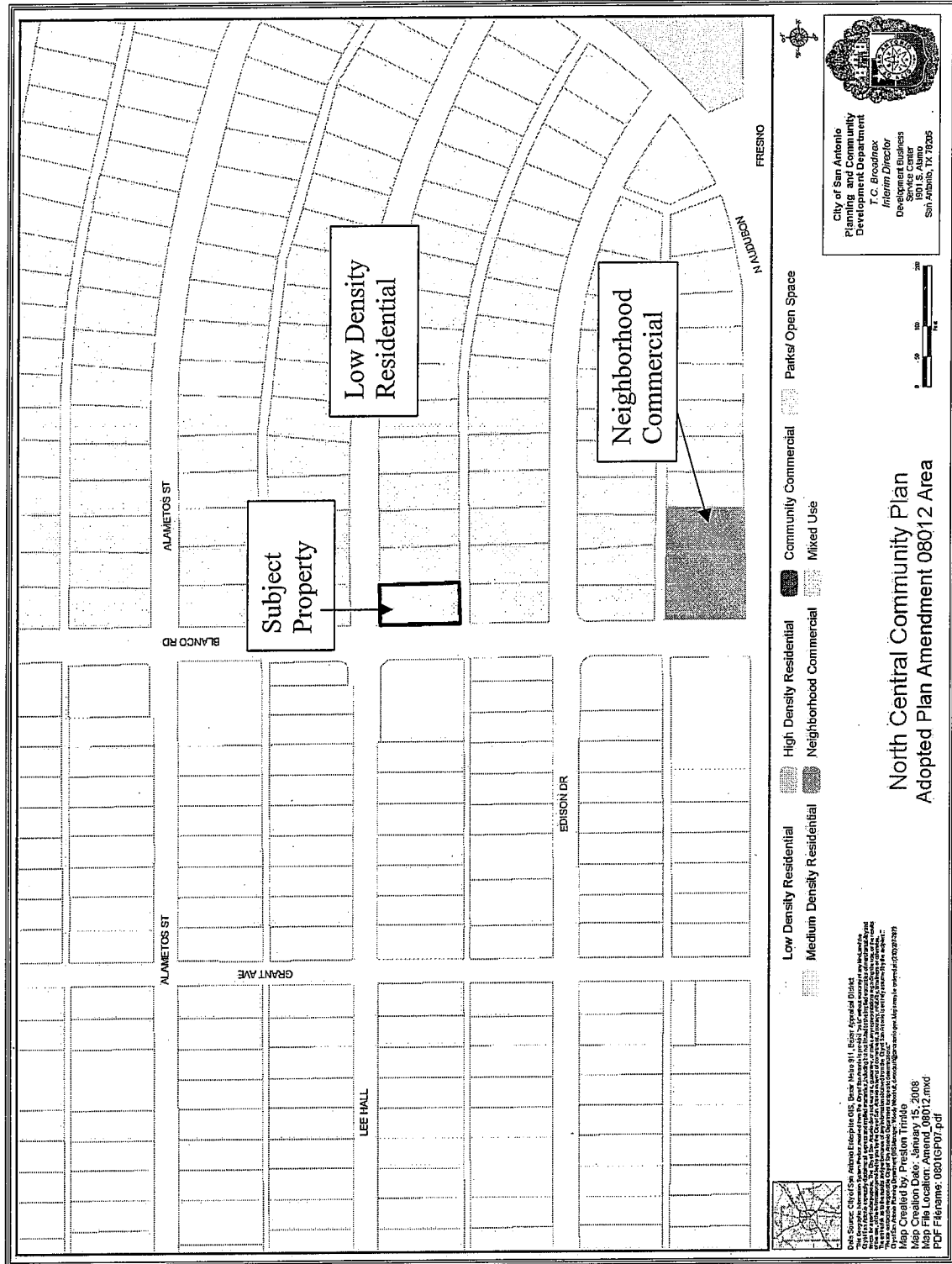
Planning Manager

Case Manager: Tamara Palma

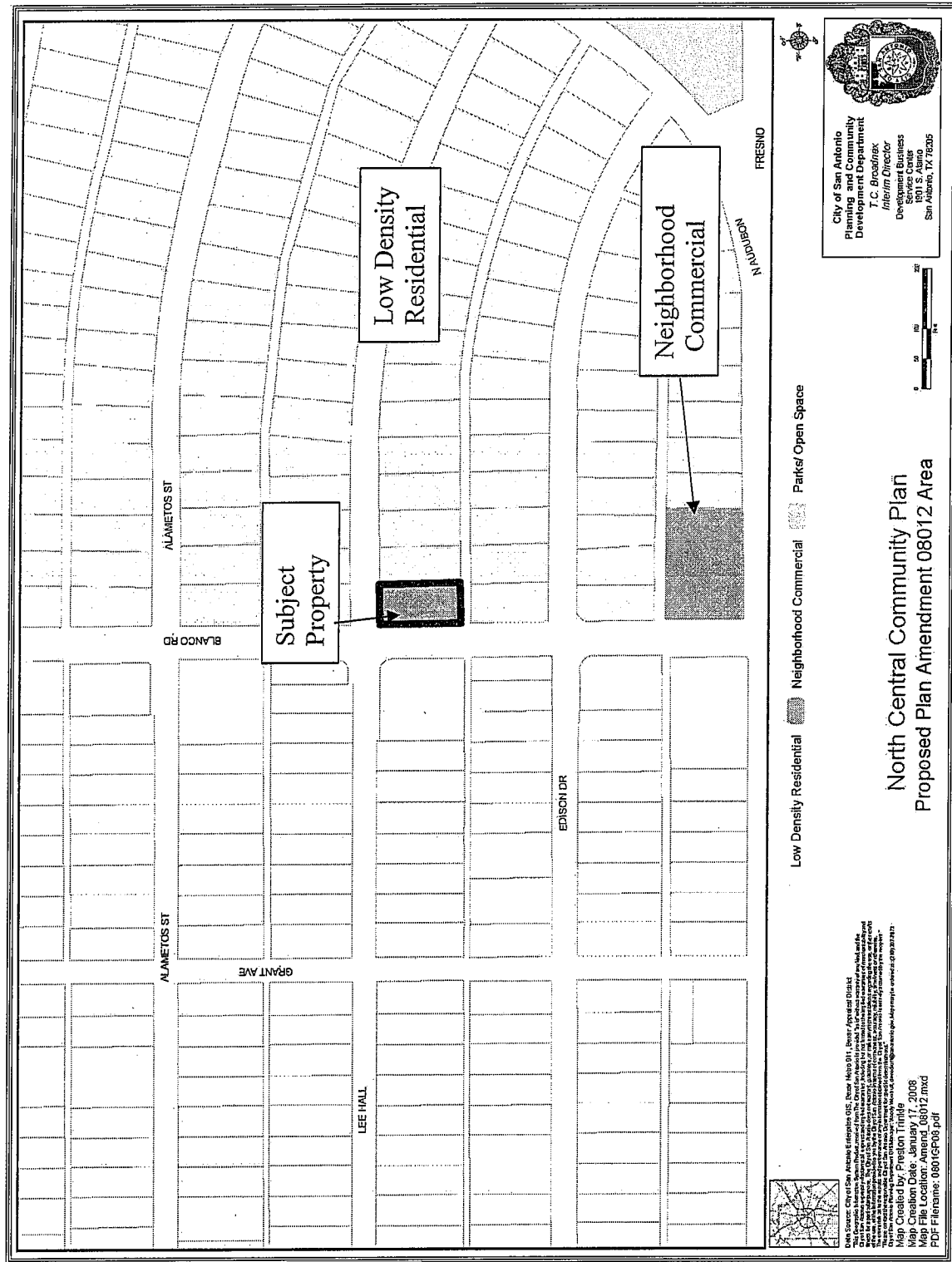
Planner

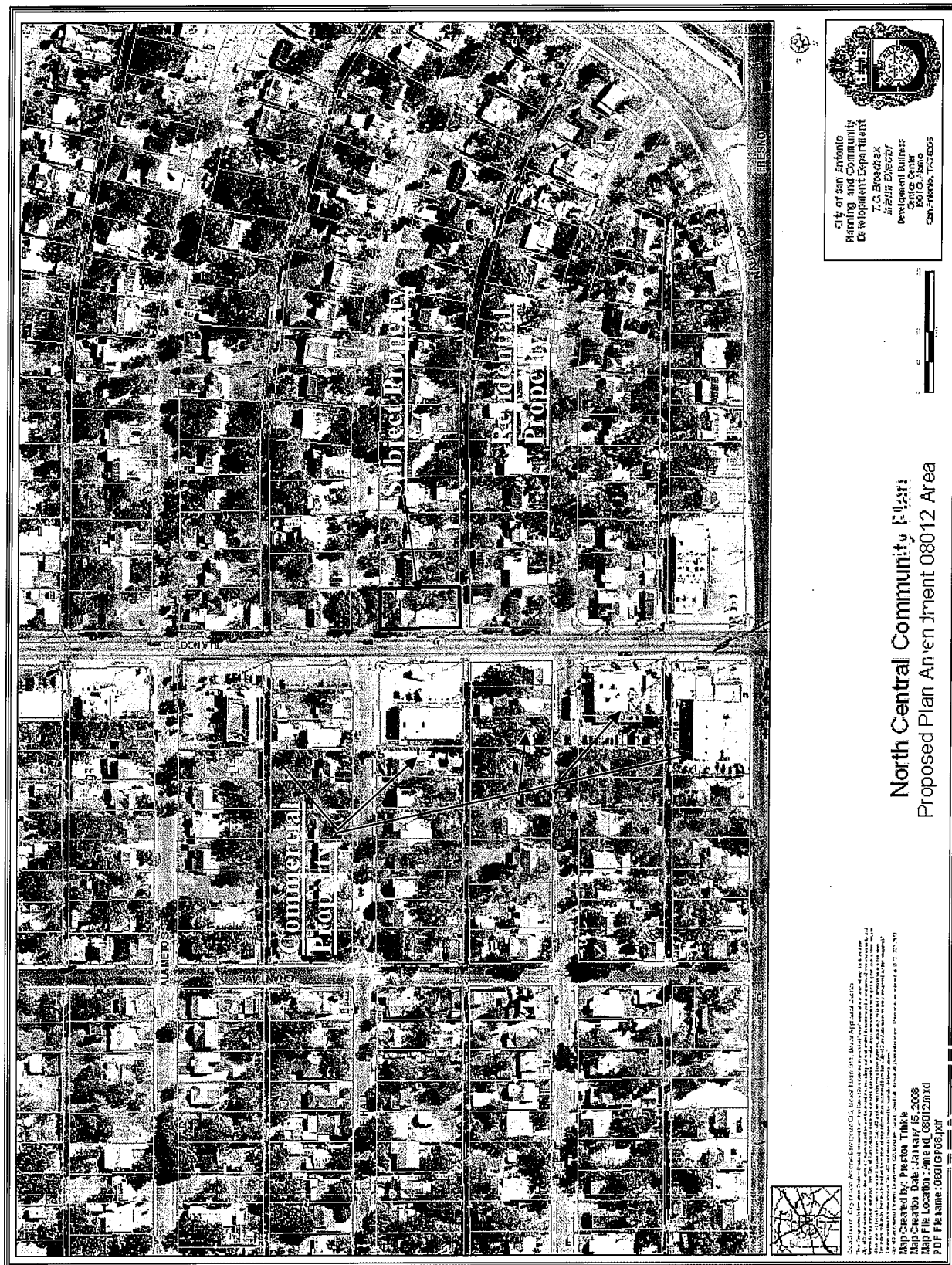
Phone No.: 207-7909

Land Use Plan as adopted:



Proposed Amendment





RESOLUTION NO.

RECOMMENDING TO APPROVE / DENY THE AMENDMENT OF THE LAND USE PLAN CONTAINED IN THE NORTH CENTRAL NEIGHBORHOODS COMMUNITY PLAN, A COMPONENT OF THE MASTER PLAN OF THE CITY, BY CHANGING THE USE FROM LOW DENSITY RESIDENTIAL LAND USE TO NEIGHBORHOOD COMMERCIAL LAND USE FOR AN AREA OF APPROXIMATELY 0.2 ACRES OUT OF NCB 9215 BLK 12 LOT 29 LOCATED AT 866 LEE HALL.

WHEREAS, City Council approved the North Central Neighborhoods Community Plan as an addendum to the Master Plan on February 14, 2002; and

WHEREAS, the May 3, 2001 Unified Development Code requires consistency between zoning and the Master Plan as specified in Sections 35-105, 35-420 (h), and 35-421 (d) (3); and

WHEREAS, Chapter 213.003 of the Texas Local Government Code provides that the Master Plan may be amended by ordinance following a public hearing and review by the Planning Commission; and

WHEREAS, the San Antonio Planning Commission held a public hearing on February 13th, 2008 and **APPROVED / DENIED** the amendment on February 13th; and

WHEREAS, the San Antonio Planning Commission made a finding that _____

_____ ; and

WHEREAS, the San Antonio Planning Commission has considered the effect of this amendment to the Master Plan as it pertains to land use intensity, compatibility, community facilities, and the transportation network and found the amended plan to be **CONSISTENT / INCONSISTENT** with City policies, plans and regulations and in conformance with the *Unified Development Code*, Section 35-420, therefore meeting all requirements; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:

SECTION 1: The amendment to the North Central Neighborhoods Community Plan attached hereto and incorporated herein by reference is recommended to the City Council with this Commission's recommendation for **APPROVAL / DENIAL** as an amendment to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 13th DAY OF FEBRUARY 2008.

Approved:

Attest:

Murray H. Van Eman, Chairman
San Antonio Planning Commission

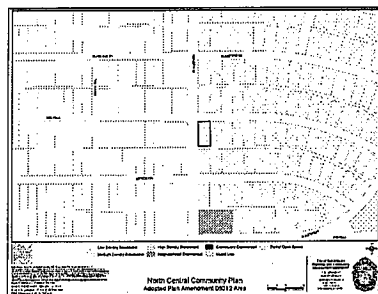
Executive Secretary
San Antonio Planning Commission

Master Plan Amendment 08012 North Central Neighborhoods Community Plan

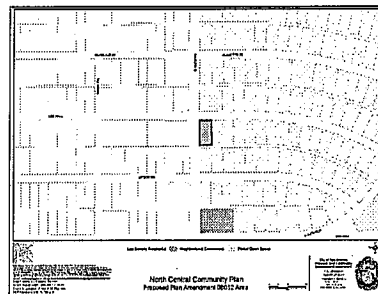
**Planning Commission
February 13, 2008
Agenda Item No.**

Amendment 08012

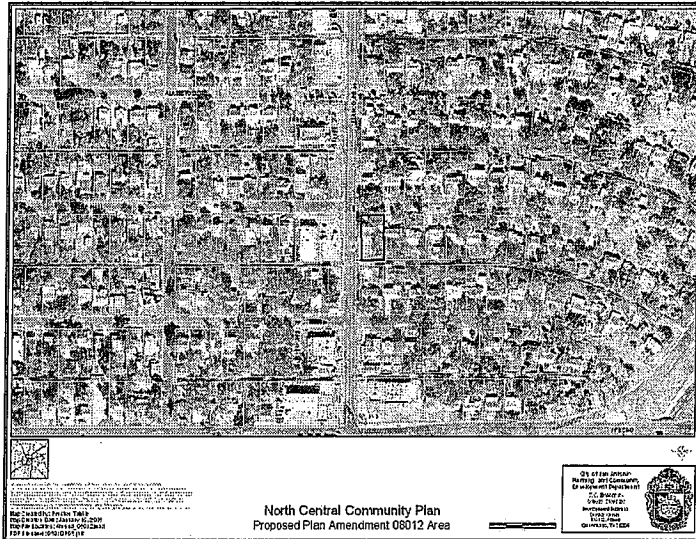
Plan as adopted:



Proposed amendment:

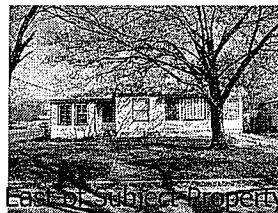
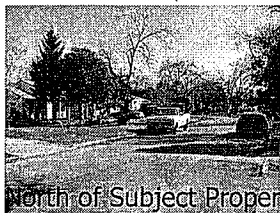


Land Use



3

Subject Property



4

City of San Antonio Planning and Community Development Department

Plan Amendment Recommendation

Agenda Item # 26

Plan Amendment Application Case No.: 08013

Council District: 5

City Council Meeting Date: 3/20/2008

☒ Plan Amendment Map – Attachment 1

☒ Digital Ortho Image – Attachment 2

Summary:

Neighborhood/Community/Perimeter Plan: **Downtown Neighborhood Plan**

The applicant requests to amend the Land Use Plan designation from **Residential Land Use** to **Mixed Use Land Use**.

Background Information:

Applicant: Jerry Arredondo

Owner: Bruce Embrey

Property Location: 1126 W. Commerce

Acreage: +/- .3447 acres

Current Land Use of site: Bail Bonds;
Formerly DBA 'Jailhouse Café'

Adjacent Land Uses:

N: Government Institutional (Bexar County Jail complex)

E: Light Industrial (King Koil Sleep Products)

S: Light Industrial (Warehouse/ Storage)

W: Commercial (neighborhood/ furniture retail)

Issue:

DEFINITIONS:

Residential Use: The Downtown Neighborhood Plan provides a general definition of the Residential land use category. Residential uses may include single family, multifamily, and mixed use activities.

Mixed Use: Extracted from the Downtown Neighborhood Plan, "a mixed use building contains residential and retail and/or office uses within multiple floors." The Mixed Use land use designation provides for a concentrated blend of residential, retail, professional service, office, entertainment, leisure and other related uses at increased densities to create a pedestrian-oriented environment.

LAND USE ANALYSIS:

The subject property is located at the corner of Comal Street and W. Commerce, and is on a +/- .334 acre parcel in the 'P' District of the Downtown Neighborhood Plan. The existing building once served as a restaurant (the Jailhouse Café), and the applicant is now requesting to transition to a bail bonds commercial service. The property is one of many older establishments located under the W. Commerce Street bridge. The current land use designation of the subject property is Residential, which is inconsistent with former and proposed land uses. It is important to note that all land uses in District 'P' of the Downtown Neighborhood plan are designated Residential, including the Bexar County jail complex. Staff is currently analyzing the Downtown Plan for a potential plan update, and will make recommendations after the Downtown Strategic Plan process is complete.

Adjacent uses to the subject property include the Bexar County jail complex to the north, warehouse and storage uses to the south, a railroad line to the east, and a commercial furniture retail store to the west. Given the intensity of the surrounding uses, a Mixed Use land use may be more appropriate for this location than residential uses. The subject property is situated along W. Commerce Street a Primary Arterial Type B which could support the requested higher intensity Mixed Use Land Use. Furthermore, such a highly trafficked arterial is generally an inappropriate location for residential uses.

City of San Antonio Planning and Community Development Department
Plan Amendment Recommendation

The subject property is located in an area undergoing significant transition due to the proposed County Jail expansion directly adjacent to the north, the proposed Westside Multimodal project and the pending Haven for Hope development. For decades, industrial uses have held a strong presence throughout this area. Many of those industrial buildings are now vacant. Taking into consideration the subject parcel's location, the pending future development for the general area and the transitioning uses to date, a Mixed Use Land Use may be more appropriate for the subject parcel.

☒ Minimal Impact ☐ Impact can be mitigated ☐ Significant Impact - Incompatible Land Use

TRANSPORTATION/INFRASTRUCTURE ANALYSIS:

Parking for the proposed establishment is achieved by utilizing the surface area under the W. Commerce Street Bridge. W. Commerce is a Primary Arterial Type B.
Other streets: The subject property is situated on the corner of W. Commerce and Comal Street. The Bexar County jail complex and other support service uses, including law offices, are located along Comal Street.

☒ Minimal Impact ☐ Impact can be mitigated ☐ Significant Impact to Transportation Capacity

COMMUNITY FACILITIES ANALYSIS:

Nearby Public Facilities: Bexar County Jail Complex
Comments: Subject property is located directly south of the Bexar County Jail Complex.

☒ Minimal Impact ☐ Impact can be mitigated ☐ Significant Impact to Community Facilities Capacity

Recommendation:

STAFF RECOMMENDATION:

☒ Approval ☐ Denial ☐ Alternate Recommendation:

Comments: The proposed Land Use change request from Residential to Mixed Use is an appropriate request in order to meet the transitioning demands of the area.

PLANNING COMMISSION RECOMMENDATION:

Meeting & Public Hearing Date: February 13, 2008

☐ Approval ☐ Denial ☐ Resolution Attached

Newspaper Publication Date of Public Hearing: 1/14/2008

No. Notices mailed 10 days prior to Public Hearing: 282

Registered Neighborhood Association(s) Notified: Government Hill Alliance, Historic Gardens HOA, Dignowity Hill NA, Downtown Residents Assoc., St. Paul Square Owners Assoc., Prospect Hill Neighborhood Assoc., Nevada Street NA

ZONING COMMISSION SUPPLEMENTAL INFORMATION: Z2008063

Current zoning district: I-2

Proposed zoning district: C-2 (IDZ)

Zoning Commission Public Hearing Date: 1/19/2008

☒ Approval ☐ Denial

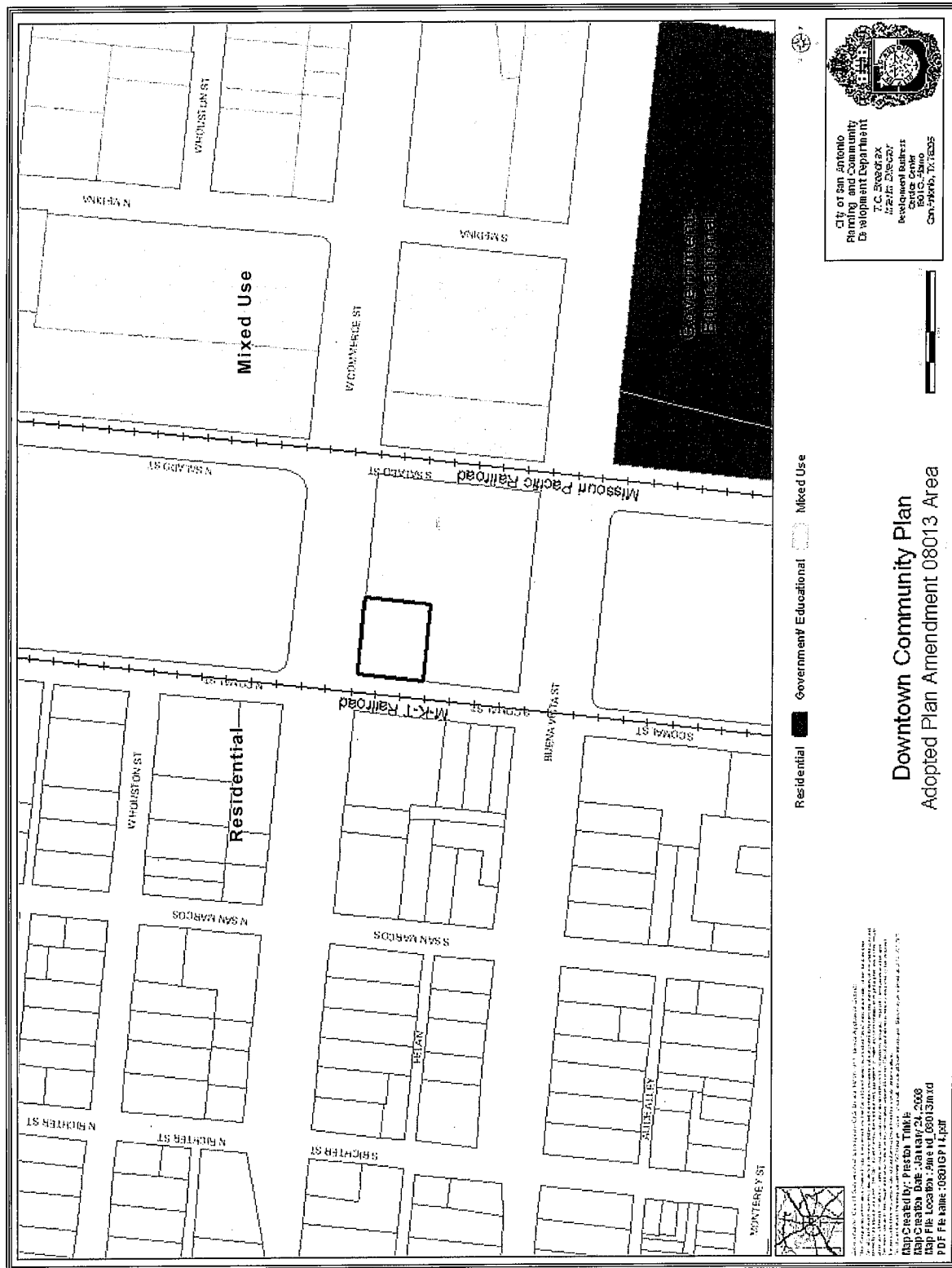
Planning Department Staff:

Nina Nixon-Mendez, AICP
Case Manager: Gary Edenburn

Planning Manager
Planner

Phone No.: 207-0139

Land Use Plan as Adopted:

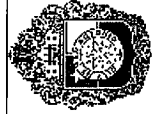




of the *Journal of the American Medical Association*, 1974; 231: 1054-1056.

Map Created by: Preston Tink
Map Creation Date: January 21, 2008
Map File Location: Area1\0013.mxd
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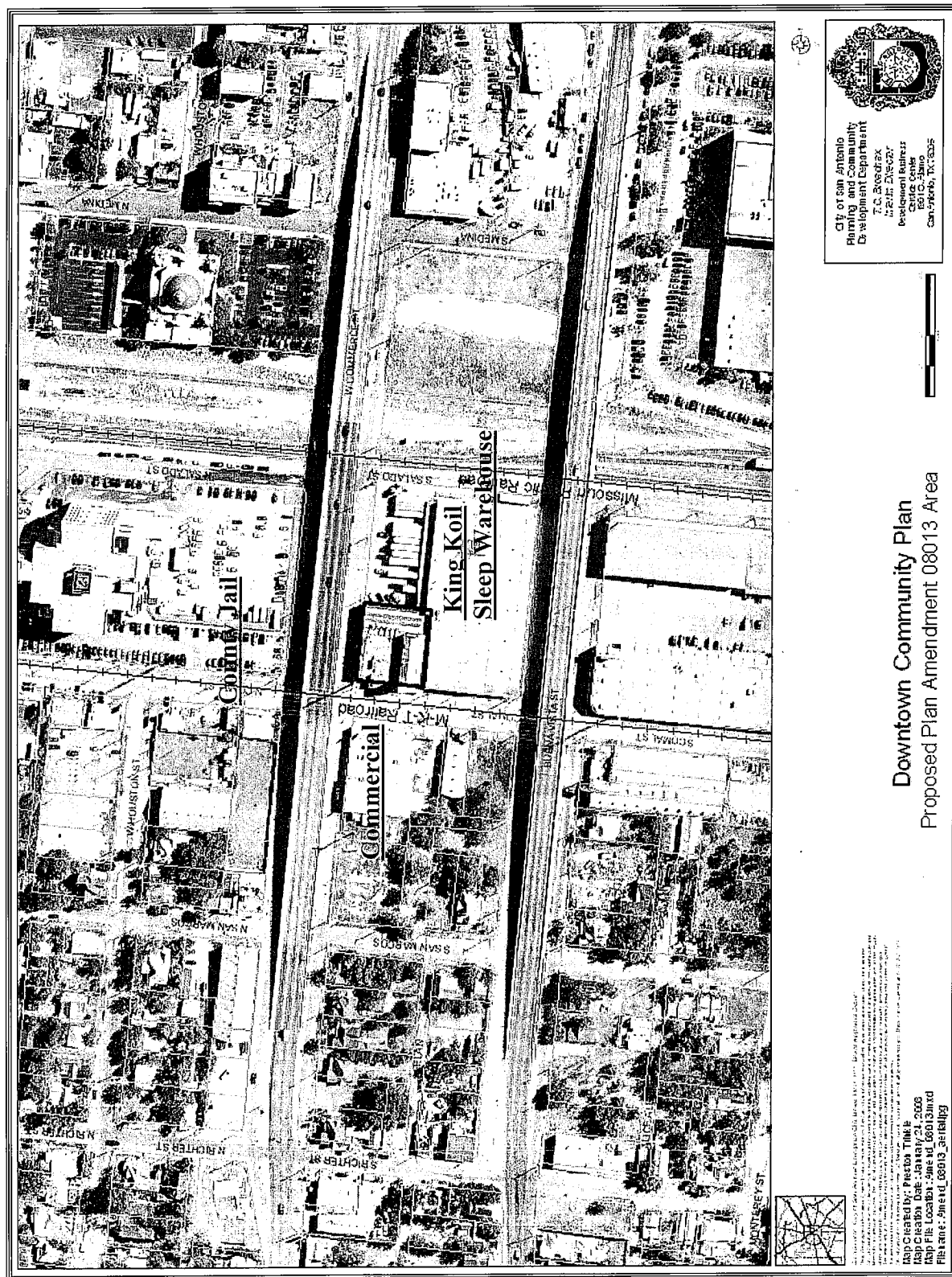
	Residential	Government/Educational	Mixed Use
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2	100%	100%	100%
3	100%	100%	100%
4	100%	100%	100%
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97	100%		



City of San Antonio
Planning and Community
Development Department
700 Broadway
Austin, Texas
Development Bureau
Cardiac Center
PO Box 11110
San Antonio, TX 78285



Downtown Community Plan
Proposed Plan Amendment 08013 Area



RESOLUTION NO.

RECOMMENDING TO APPROVE / DENY THE AMENDMENT OF THE LAND USE PLAN CONTAINED IN THE DOWNTOWN NEIGHBORHOOD PLAN, A COMPONENT OF THE MASTER PLAN OF THE CITY, BY CHANGING THE USE FROM RESIDENTIAL LAND USE TO MIXED USE LAND USE FOR AN AREA OF APPROXIMATELY .3447-ACRES LOCATED AT 1126 W. COMMERCE.

WHEREAS, City Council approved the Downtown Neighborhood Plan as an addendum to the Master Plan on May 13, 1999; and

WHEREAS, the May 3, 2001 Unified Development Code requires consistency between zoning and the Master Plan as specified in Sections 35-105, 35-420 (h), and 35-421 (d) (3); and

WHEREAS, Chapter 213.003 of the Texas Local Government Code provides that the Master Plan may be amended by ordinance following a public hearing and review by the Planning Commission; and

WHEREAS, the San Antonio Planning Commission held a public hearing on February 13, 2008 and **APPROVED / DENIED** the amendment on February 13; and

WHEREAS, the San Antonio Planning Commission made a finding that _____
_____; and

WHEREAS, the San Antonio Planning Commission has considered the effect of this amendment to the Master Plan as it pertains to land use intensity, compatibility, community facilities, and the transportation network and found the amended plan to be **CONSISTENT / INCONSISTENT** with City policies, plans and regulations and in conformance with the *Unified Development Code*, Section 35-420, therefore meeting all requirements; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:

SECTION 1: The amendment to the Downtown Neighborhood Plan attached hereto and incorporated herein by reference is recommended to the City Council with this Commission's recommendation for **APPROVAL / DENIAL** as an amendment to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 13th DAY OF FEBRUARY 2008.

Approved:

Attest:

Murray H. Van Eman, Chairman
San Antonio Planning Commission

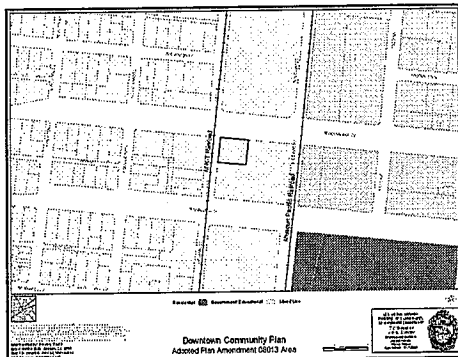
Executive Secretary
San Antonio Planning Commission

Master Plan Amendment 08013 Downtown Neighborhood Plan

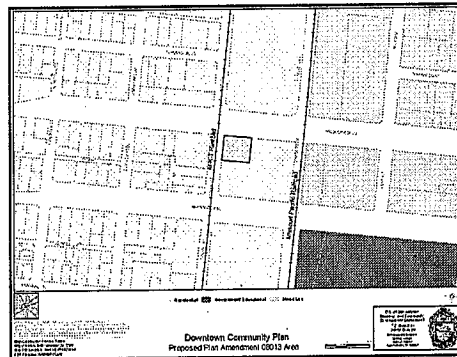
**Planning Commission
February 13, 2008
Agenda Item No.**

Amendment 08013

Plan as adopted:



Proposed amendment:



[illegible]

City of San Antonio Planning and Community Development Department

Plan Amendment Recommendation

Agenda Item # 27

Plan Amendment Application Case No.: 08014

Council District: 5

City Council Meeting Date: 3/20/2008

☒ Plan Amendment Map – Attachment 1

☒ Digital Ortho Image – Attachment 2

Summary:

Neighborhood/Community/Perimeter Plan: **Downtown Neighborhood Plan**

The applicant requests to amend the Land Use Plan designation from **Residential** to **Mixed Use**.

Background Information:

Applicant: Janice Wagley

Owner: Janice Wagley

Property Location: 1309 W. Houston

Acreage: 0.1463

Current Land Use of site: Low Density Residential

Adjacent Land Uses:

N: Low Density Residential

E: Vacant (zoned Residential)

S: Low Density Residential

W: Low Density Residential

Issue:

DEFINITIONS:

Residential Use: The Downtown Neighborhood Plan provides a general definition of the Residential land use category. Residential uses may include single family, multifamily, and mixed use activities.

Mixed Use: Extracted from the Downtown Neighborhood Plan, “a mixed use building contains residential and retail and/or office uses within multiple floors.” The Mixed Use land use designation provides for a concentrated blend of residential, retail, professional service, office, entertainment, leisure and other related uses at increased densities to create a pedestrian-oriented environment.

LAND USE ANALYSIS:

The subject property is located at 1309 W. Houston Street, is the third residential lot in from San Marcos Street and is located in a single family residential community. The existing structure once served as a residential home and the applicant is now requesting to transform the house to a bail bonds commercial service. The current land use designation of the subject property is Residential, which is consistent with the current and proposed land uses.

Adjacent uses to the subject property include low density residential to the north, south, east and west. The Bexar County Jail Complex is located one block to the east. There are some mixed uses such as bail bonds and law offices that front San Marcos Street; however, the interior residential uses remain consistent with the current and future land use. Approval of this request would allow commercial encroachment into the residential neighborhood.

☐ Minimal Impact

☐ Impact can be mitigated

☒ Significant Impact - Incompatible Land Use

**City of San Antonio Planning and Community Development Department
Plan Amendment Recommendation**

TRANSPORTATION/INFRASTRUCTURE ANALYSIS:

Parking for the proposed bail bonds may pose a problem since there is only room for four parking spaces. There may also be a negative traffic impact to the residential street.

☐ Minimal Impact ☒ Impact can be mitigated ☐ Significant Impact to Transportation Capacity

COMMUNITY FACILITIES ANALYSIS:

Nearby Public Facilities: Bexar County Jail Complex

Comments: Subject property is located one block to the west of the Bexar County Jail

☐ Minimal Impact ☒ Impact can be mitigated ☐ Significant Impact to Community Facilities Capacity

Recommendation:

STAFF RECOMMENDATION:

☐ Approval ☒ Denial ☐ Alternate Recommendation:

Comments: The proposed Land Use change request from Residential to Mixed Use would encourage commercial encroachment into the neighborhood.

PLANNING COMMISSION RECOMMENDATION:

Meeting & Public Hearing Date: February 13, 2008

☐ Approval ☐ Denial ☐ Resolution Attached

Newspaper Publication Date of Public Hearing: 1/14/2008

No. Notices mailed 10 days prior to Public Hearing: 165

Registered Neighborhood Association(s) Notified:

Comments: 0

ZONING COMMISSION SUPPLEMENTAL INFORMATION:

Current zoning district: R-4

Proposed zoning district: C-2

Zoning Commission Public Hearing Date: January 15, 2008

☐ Approval ☒ Denial

Planning Department Staff:

Nina Nixon-Mendez, AICP

Planning Manager

Case Manager: Sidra Maldonado

Planner

Phone No.: 207-7815



City of San Antonio
Planning and Community
Development Department

T.C. Brundage
Interim Director
Planning and
Community
Development
8010 Alamo
San Antonio, TX 78205

Downtown Community Plan
Proposed Plan Amendment 08014 Area

Residential Mixed Use

Map Created by: Pictorial Thinking
Map Creation Date: January 29, 2008
Map File Location: C:\pictorial\08014\map\08014.mxd
PDF File Name: 08014_proposed.tpg

Downtown Community Plan

Proposed Plan Amendment 08014 Area

Residential Mixed Use

City of San Antonio
Planning and Community
Development Department
T.C. Bracke
Interim Director
Development Bureau
Civic Center
1510 Alamo
San Antonio, TX 78205

[illegible]

RESOLUTION NO.

RECOMMENDING TO APPROVE / DENY THE AMENDMENT OF THE LAND USE PLAN CONTAINED IN THE DOWNTOWN NEIGHBORHOOD PLAN, A COMPONENT OF THE MASTER PLAN OF THE CITY, BY CHANGING THE USE FROM RESIDENTIAL LAND USE TO MIXED USE LAND USE FOR AN AREA OF APPROXIMATELY 0.1463 ACRES LOCATED AT 1309 W. HOUSTON.

WHEREAS, City Council approved the Downtown Neighborhood Plan as an addendum to the Master Plan on May 13, 1999; and

WHEREAS, the May 3, 2001 Unified Development Code requires consistency between zoning and the Master Plan as specified in Sections 35-105, 35-420 (h), and 35-421 (d) (3); and

WHEREAS, Chapter 213.003 of the Texas Local Government Code provides that the Master Plan may be amended by ordinance following a public hearing and review by the Planning Commission; and

WHEREAS, the San Antonio Planning Commission held a public hearing on February 13, 2008 and **APPROVED / DENIED** the amendment on February 13; and

WHEREAS, the San Antonio Planning Commission made a finding that _____

_____ ; and

WHEREAS, the San Antonio Planning Commission has considered the effect of this amendment to the Master Plan as it pertains to land use intensity, compatibility, community facilities, and the transportation network and found the amended plan to be **CONSISTENT / INCONSISTENT** with City policies, plans and regulations and in conformance with the *Unified Development Code*, Section 35-420, therefore meeting all requirements; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:

SECTION 1: The amendment to the Downtown Neighborhood Plan attached hereto and incorporated herein by reference is recommended to the City Council with this Commission's recommendation for **APPROVAL / DENIAL** as an amendment to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 13th DAY OF FEBRUARY 2008.

Approved:

Attest:

Murray H. Van Eman, Chairman
San Antonio Planning Commission

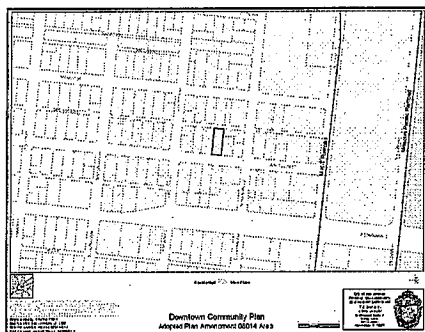
Executive Secretary
San Antonio Planning Commission

Master Plan Amendment 08014 Downtown Neighborhood Plan

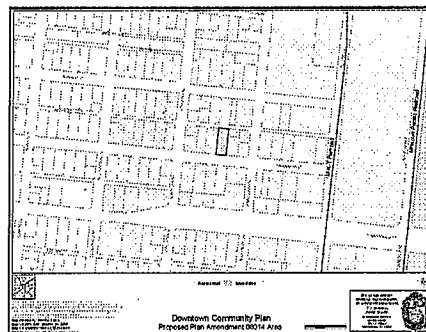
**Planning Commission
February 13, 2008
Agenda Item No.**

Amendment 08014

Plan as adopted:



Proposed amendment:



[illegible]

*Agenda Item
28*

**CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
Planning Commission**

TO: Members of the San Antonio Planning Commission

FROM: Roderick J. Sanchez, AICP, CBO, Director

SUBJECT: Proposed zoning amendment to the UDC regarding bail bonds businesses

DATE: February 13, 2008

SUMMARY:

Pursuant to direction by City Council, the Development Services Department has prepared an amendment to the Unified Development Code (UDC) to define and to specify locational criteria for bail bond offices.

BACKGROUND INFORMATION:

San Antonio's UDC indicates in which zoning districts individual uses are allowed or not allowed. There is no definition for bail bond offices, nor is there an entry for this use in the "use matrix" of the UDC; currently, bail bond offices are interpreted as professional offices and are allowed by right in all of the office and commercial zoning districts. Because of the broad specifications associated with the location of bail bond businesses, neighborhoods are concerned about the potential for one or more of these establishments to be located adjacent to or in close proximity to their residential properties.

In January, the Development Services Department received a Council Consideration Request (CCR) to amend the UDC by creating a definition and use matrix entry for bail bond agencies. The proposal is to allow this use within the C-2 (Commercial District), C-3 (General Commercial District), L (Light Industrial District) and I-1 (General Industrial District) **only with approval of a Specific Use Authorization**, which requires a site plan submittal and City Council approval through a zoning change. Following initiation through the CCR, the City Council Governance Committee considered this item and referred it to the City Council Infrastructure and Growth Committee following review and consideration by the Planning Commission and Zoning Commission.

POLICY ANALYSIS AND RECOMMENDATION:

Requiring specific use authorization in certain zoning districts for this use would give City Council the discretion to determine if the proposed use would be appropriate at the proposed location, based on the site plan provided by the applicant and made a part of the ordinance for the specific use. Through the zoning change process, the Zoning Commission could recommend, and City Council could impose conditions to make a proposed bail bonds business more

compatible with surrounding land uses; or City Council could deny the requested zoning change.

The Development Services Department recommends approval. The amendment as proposed would offer concerned citizens and property owners a public hearing process to provide input on the location of uses that can have an impact on their neighborhood.



CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL
COUNCIL CONSIDERATION REQUEST

RECEIVED
CITY OF SAN ANTONIO
CITY CLERK
2008 JAN - 9 PM 3:47

TO: Mayor & City Council

FROM: Councilwoman Lourdes Galvan

COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; Pat DiGiovanni, Deputy City Manager; Chris Callanen, Assistant to the City Council; Michael Bernard, City Attorney; Leticia Callanen, Special Projects Manager; Ramiro Gonzales, Special Projects Coordinator

SUBJECT: Amendment to the UDC Re. Zoning for Bail Bond Businesses

DATE: January 8, 2008

Issue Proposed for Consideration


I ask for your support for the inclusion of the following item on the agenda of the earliest available meeting of the Governance Committee:

I respectfully ask for your support in amending the UDC regarding zoning for bail bond businesses, allowing the subject use with approval of a Specific Use Authorization (S) in the C-2, C-3, L, D, and I-1 Districts. Before the Zoning Commission or City Council may consider a rezoning case with an S, the applicant must submit a site plan, which would have to generally be adhered to upon development. I additionally request that the Development Services Department Staff bring forward an appropriate definition for 'bail bond agencies' to be considered and added to the Definitions section of the UDC.

Brief Background

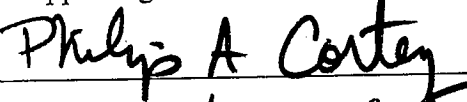
Currently, bail bond businesses fall under the classification of a "Professional Office." As such, they are allowed to open in areas designated O-1, O-2, NC, C-1, C-2, C-3, I-1, and L. This current zoning has resulted in bail bond businesses moving into closer proximity of residential areas and coming into direct conflict with community plans.

Submitted for Council consideration
by:

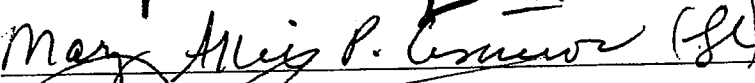

Councilwoman Lourdes Galvan, District 5

Supporting Councilmembers' Signatures (4 only)

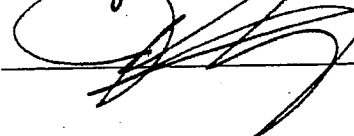
District No.

1.  (by T.O.S.)

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2.  (fl)

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3. 

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4.

Plane Abvian

8

RECEIVED
CITY OF SAN ANTONIO
CITY CLERK
2008 JAN -9 PM 3:57


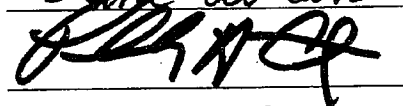
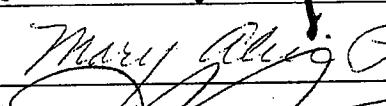

TO: Mayor & City Council
FROM: Councilwoman Lourdes Galvan
COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; Pat DiGiovanni, Deputy City Manager; Chris Callanen, Assistant to the City Council; Michael Bernard, City Attorney; Leticia Callanen, Special Projects Manager; Ramiro Gonzales, Special Projects Coordinator
SUBJECT: Amendment to Council Consideration Request Re. Zoning for Bail Bond Businesses
DATE: January 10, 2008

I ask for your support in amending the CCR, dated January 8, 2008, "Amendment to the UDC Re. Zoning for Bail Bond Businesses." Whereas current zoning for bail bond businesses includes Downtown Zoning, "D," this amendment removes D as a zoning option for bail bond businesses.

Submitted for Council consideration by:


Councilwoman Lourdes Galvan, District 5

Supporting Councilmembers' Signatures

1.  , 8
2.  , 4
3.  , 1
4.  , 10

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Proposed Amendment to the Unified Development Code (Chapter 35 of the City Code)

APPENDIX A: DEFINITIONS AND RULES OF INTERPRETATION

Sec. 35-A101. Generally.

Bail Bond Agency - an establishment in which a licensed bail bond surety provides bail bond services as regulated by the Texas Occupations Code.

35-311 Use Regulations

TABLE 311-2 NON-RESIDENTIAL USE MATRIX												
	PERMITTED USE	O-1	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD (LBCS Function)
Service	Bail Bond Agency/Office					S	S		S	S		P

*Agenda Item
29*

**CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
Planning Commission**

TO: Members of the San Antonio Planning Commission

FROM: Roderick J. Sanchez, AICP, CBO, Director

SUBJECT: Proposed zoning amendment to the UDC regarding payday loan agencies and check cashing facilities

DATE: February 13, 2008

SUMMARY:

Pursuant to direction by City Council, the Development Services Department has prepared an amendment to the Unified Development Code (UDC) to define and to specify locational criteria for payday loan agencies and check cashing facilities.

BACKGROUND INFORMATION:

San Antonio's UDC indicates in which zoning districts individual uses are allowed or not allowed. There are no definitions for payday loan agencies or check cashing facilities, nor are there entries for these uses in the "use matrix" of the UDC; currently these uses, when established as principal uses, are interpreted as offices or loan offices which are allowed by right in all of the office and commercial zoning districts. Because of the broad specifications associated with the location of these businesses, neighborhoods are concerned about the proliferation of these establishments adjacent to or in close proximity to their residential properties.

In September of 2007, the Development Services Department received a Council Consideration Request (CCR) to amend the UDC by creating definitions and use matrix entries for payday loan agencies and check cashing facilities. The proposal is to allow these uses within the C-1 (Light Commercial District), C-2 (Commercial District), and C-3 (General Commercial District) **only with approval of a Specific Use Authorization**, which requires a site plan submittal and City Council approval through a zoning change. Additionally, there are several standard conditions proposed for these uses listed on the attached supporting documents. The City Council Infrastructure and Growth Committee considered this item in November of 2007, however it is pending Planning Commission and Zoning Commission review and consideration before being considered by City Council.

POLICY ANALYSIS AND RECOMMENDATION:

Requiring specific use authorization in certain zoning districts for these uses would give City Council the discretion to determine if the proposed use would be appropriate at the proposed location, based on the site plan provided by the applicant and made a part of the ordinance for

the specific use. Through the zoning change process, the Zoning Commission could recommend, and City Council could impose conditions to make a proposed payday loan agency or check cashing facility more compatible with surrounding land uses; or City Council could deny the requested zoning change.

The Development Services Department recommends approval. There is increasing concern in the community about the intensity of these uses; they do not lend themselves well to the less intense zoning districts. The amendment as proposed would offer concerned citizens and property owners a public hearing process to provide input on the location of uses that can have an impact on their neighborhood.

Note: The "loan office" use matrix entry is proposed to be deleted. Considering law, industry and culture changes over the years, any savings and loan or general loan operations can be allowed under the "bank" use matrix entry, eliminating any confusion.



**CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL
COUNCIL CONSIDERATION REQUEST**

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2007 SEP 19 PM 12: 24

TO: Mayor & City Council

FROM: Councilwoman Sheila McNeil

COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; Erik J. Walsh, Assistant City Manager; Christopher Callanen, Assistant to the City Council

SUBJECT: Request for Placement of Item on City Council Meeting Agenda

DATE: September 13, 2007

Issue Proposed for Consideration

I ask for your support for the inclusion of the following item on the agenda of the earliest available meeting of the City Council:

I am respectfully requesting that the Development Services Department staff take appropriate steps in bringing forward to the City Council for final action an amendment to the Unified Development Code to require a specific use permit for check cashing facilities and pay-day loan agencies in certain zoning districts. A check cashing facility is defined as: a person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. The term "check cashing facility" does not include a state or federally chartered bank, savings and loan association, credit union, or industrial loan company. A pay-day loan agency is defined as: an establishment providing loans to individuals in exchange for personal checks as collateral. I request that this amendment to the UDC be brought forward on the earliest possible City Council Agenda.

Brief Background

The purpose of a specific use permit is to provide for certain uses which, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right, but which may, under the right set of circumstances and conditions be acceptable in certain specific locations. These uses are permitted only through the issuance of a specific use permit by the City Council after ensuring that the use can be appropriately accommodated on the specific property, will be in conformance with the comprehensive plan, can be constructed and operated in a manner which is compatible with the surrounding land uses and overall character of the community, and that the public interest and general welfare of the citizens of the city will be protected. There has been an increase in check cashing facilities and pay-day loan agencies all across the city.

Continues...

Requiring a specific use permit in certain zoning districts for these two uses would give City Council the discretion to determine if the uses are appropriate at the proposed locations, based on the site plan provided by the applicant and made a part of the ordinance for the specific use permit.

Submitted for Council consideration
by:

Guila MacNeil 9/18/07
Sponsoring Councilmember

Supporting Councilmembers' Signatures (4 only)

District No.

1. Margaret J. Guerrero
2. Maria Herrera
3. [Signature]
4. [Signature]

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Proposed Amendment to the Unified Development Code (Chapter 35 of the City Code)

APPENDIX A: DEFINITIONS AND RULES OF INTERPRETATION

Sec. 35-A101. Generally.

Check Cashing Facility – a person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. The term “check cashing facility” does not include a state or federally chartered bank, savings and loan association, credit union, or industrial loan company.

Pay-Day Loan Agency – an establishment providing loans to individuals in exchange for personal checks as collateral.

35-311 Use Regulations

TABLE 311-2 NON-RESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Service	Loan Office	P	P	P	P	P	P	P				P	2200
Service	Check Cashing Facility				S	S	S					P	2600
Service	Pay-Day Loan Agency				S	S	S					P	2600

DIVISION 7 – SUPPLEMENTAL USE REGULATIONS

Sec. 35-394. Check Cashing Facilities and Pay-Day Loan Agencies

Check cashing facilities and pay-day loan agencies shall comply with the following requirements:

- (a) Hours of operation shall be established by City Council as part of a Specific Use Permit.
- (b) There shall be no outdoor queuing: an indoor waiting area large enough to accommodate all customers shall be provided.
- (c) The establishment shall not permit any loitering on the premises and shall maintain the outside yard area free of trash, litter, and graffiti.

*Agenda Item
#30*

**CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
Planning Commission**

TO: Members of the San Antonio Planning Commission

FROM: Roderick J. Sanchez, AICP, CBO, Director

SUBJECT: Proposed zoning amendment to the UDC regarding the minimum acreage requirement for Master Planned Community Districts (MPCD)

DATE: February 13, 2008

SUMMARY:

Pursuant to direction by City Council, the Development Services Department has prepared an amendment to the Unified Development Code (UDC) pertaining to the minimum acreage required to zone and develop an MPCD (Master Planned Community District).

BACKGROUND INFORMATION:

In 2001, San Antonio's City Council adopted the current UDC which includes a zoning classification intended to encourage mixed use developments: MPCD (Master Planned Community District). This zoning classification offers opportunities to create areas of mixed uses that are internally compatible in an effort to achieve well designed development and provide a more efficient arrangement of land uses, building and circulation systems.

At the time of the adoption of the UDC, flexible mixed use developments were not common in San Antonio. It was thought at the time that a 100-acre minimum size requirement to request and develop an MPCD would be a good starting point for this new and beneficial style of development. Since adoption of the UDC in 2001, not many developers have taken advantage of these mixed use options. From requests and proposals that Staff has reviewed, it appears that the 100-acre minimum size requirement may be the primary reason.

In November of 2007, the Development Services Department received a Council Consideration Request (CCR) to amend the UDC by reducing the minimum acreage requirement from 100 acres to 25 acres. In December, the City Council Governance Committee considered this CCR and referred the issue to the City Council Infrastructure and Growth Committee following review and consideration by the Planning Commission and Zoning Commission.

POLICY ANALYSIS AND RECOMMENDATION:

As stated in the CCR, over the last six years, the MPCD zoning option has been utilized only a few times. Decreasing the minimum size requirement for MPCDs to 25 acres should promote more mixed use developments in San Antonio. Twenty-five acres is a reasonable number based

on zoning cases and projects Staff has reviewed and assisted applicants with. A reduction to 25 acres as a minimum would not negatively affect the compatibility standards, scale and clustering, open space, screening, or design requirements of the MPCD. All elements would continue to be illustrated on the site plan submitted with the request for zoning change and would be reviewed by the Zoning Commission and City Council in a public hearing.

Staff recommends approval.



CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL
COUNCIL CONSIDERATION REQUEST

TO: Mayor & City Council
FROM: Councilwoman Diane Cibrian District 8
COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; Pat DiGiovanni, Deputy City Manager; Chris Callanen, Assistant to the City Council; Michael Bernard, City Attorney; Leticia Callanen, Special Projects Manager; Ramiro Gonzales, Special Projects Coordinator
SUBJECT: Proposed UDC Amendment- "MPCD" Master Planned Community District
DATE: November 6, 2007

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Issue Proposed for Consideration

I ask for your support for the inclusion of the following item on the agenda of the earliest available meeting of the Governance Committee:

Amending Section 35-345 "MPCD" Master Planned Community Districts Section (b) of the Unified Development Code. The amendment would change the requirement of an MPCD consisting of at least one hundred (100) contiguous acres to twenty five (25) contiguous acres.

Brief Background

The intent of MPCD district is to encourage the development of mixed use communities that provide internal connectivity and promote compatible land uses. Within the last six years the MPCD district has been applied a total of 4 times. It appears that the primary reason that the MPCD has not been used more frequently is because of the minimum acreage requirement, which is currently 100 acres.

Submitted for Council consideration
by:

Diane G. Cibrian
Councilwoman Diane Cibrian, District 8

Supporting Councilmembers' Signatures (4 only)

District No.

1. <i>Shirley McNeil</i>	<u>2</u>
2. <i>Margaret P. Cisneros</i>	<u>1</u>
3. <i>Roland Tubery</i>	<u>3</u>
4. <i>[Signature]</i>	<u>9</u>

KENNETH W. BROWN, AICP
DANIEL ORTIZ
PATRICK W. CHRISTENSEN




112 E. PECAN STREET
SUITE 1490
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210.298.3704
FAX: 210.298.4731

PAUL M. JUAHIZ
OF COUNSEL

MEMORANDUM

TO: Councilwoman Diane Cibrian

FROM: Ken Brown 

COPIES TO: Michael Shackelford

DATE: October 30, 2007

RE: Proposed UDC Amendment – "MPCD" Master Planned Community District

As you are aware the City hired a consultant to draft the Unified Development Code (UDC) in 2001. During this process the consultant did not propose a true "PUD" Planned Unit Development District ordinance, which would allow for mixed use projects, provide flexibility of development, and promote cluster developments. I, along with Laddie Denton and Rick Pierce (Centex Homes), worked on an ordinance with Emil Moncivais (Planning Director) to draft the "MPCD" Master Planned Community District. This section was inserted into the UDC and adopted by City Council with the help of Mr. Moncivais.

In a little over six years, the MPCD district has been applied approximately four times and all of these cases were initiated by Brown, P.C. It appears that the primary reason that this zoning district has not been used is because of the minimum acreage requirement, which is currently 100 acres. As you know, developers have started proposing Urban Village type projects that range from thirty to fifty acres in size. Developers of these "Urban Village Projects" have not been able to utilize the MPCD because of the minimum acreage requirement.

The intent of the MPCD district is to encourage the development of mixed use communities that provide internal connectivity and promote compatible land uses. The efficient arrangement of land uses and transportation systems allowed within the MPCD district also create an ideal mixed use community. Decreasing the minimum size requirement for this zoning district will promote more mixed use developments in San Antonio.

Therefore, we respectfully request that you direct staff to process an amendment to Section 35-345 "MPCD" Master Planned Community District in order to establish a minimum acreage of twenty-five acres. Should you have any questions, please do not hesitate to contact me.

Sec. 35-345. "MPCD" Master Planned Community Districts.

The master planned community district is a special district established to encourage the development of areas of mixed uses that are internally compatible in an effort to achieve well designed development and provide a more efficient arrangement of land uses, building and circulation systems.

(a) Uses.

(1) An "MPCD" may include both residential and commercial uses. In particular, all residential single-family (including gated communities) and multi-family uses; "O-1" and "O-2" office uses; and "NC", "C-1", "C-2", and "C-3" commercial uses as defined in this chapter, are specifically permitted in the "MPCD" zoning base district.

(2) In addition, business park uses shall be permitted in an "MPCD" zoning base district, subject to the performance standards established in subsection (l) of this section, as follows:

- Wholesaling,
- Research and development,
- Manufacturing,
- Processing,
- Fabrication, and assembly,
- Testing,
- Repair,
- Servicing,
- Storage,
- Laboratory,
- Warehousing,
- Displaying, or
- Distribution of goods, materials or products.

(3) Vehicular access to a business park use shall be permitted only from major thoroughfares as designated in the city's major thoroughfare plan.

(4) The location of all land use categories shall be designated on the "MPCD" site plan as residential (single-family), attached residential (multi-family), office, commercial or light industry.

(b) Size. An "MPCD" shall consist of at least one hundred (100) contiguous acres.

(c) Site Plan.

(1) Simultaneous with the request for "MPCD" zoning, an "MPCD" site plan shall also be filed. An application for rezoning to an "MPCD" shall not be deemed complete unless accompanied by a proposed "MPCD" site plan. The "MPCD" site plan shall be governed by subsection 35-412(c), Completeness Review, and subsection 35-412(e), Approval Criteria, of this chapter. In addition to the applicable requirements of article V of this chapter, the "MPCD" site plan shall also be reviewed for compliance with the terms of this section.

(2) "MPCD" site plans shall be reviewed by the zoning commission and

approved by the city council concurrent with the application for rezoning to an "MPCD." The zoning ordinance shall provide that adherence to the "MPCD" site plan, or the amended "MPCD" site plan is required within the "MPCD" provided, however, that a rezoning shall not be required for the approval of a minor change to the "MPCD" site plan as defined in subsection (e)(3) of this section. The site plan shall include the proposed land uses by location, type (single-family, multi-family, office or commercial), density and size. Where single-family uses are designated, minimum lot size shall be included and major physical features such as easements, streams, floodplains, and significant vegetation shall be noted.

(3) If a master planned community is proposed outside of the city's zoning jurisdiction, but within the city's extraterritorial jurisdiction, then the property owner may submit a master site plan that conforms with the provisions contained within the section. In addition, the property owner upon submittal of the master site plan may designate such site plan as a master planned community site plan. If the property which is the subject of the master planned community site plan is subsequently annexed into the city's zoning jurisdiction, then the city shall initiate a rezoning application for the subject tract to rezone the property to "MPCD". The rezoning request and the previously approved master site plan with master planned community designation shall then be reviewed for approval pursuant to the procedures contained herein.

(d) Coordination with Independent School Districts. A copy of the site plan shall be provided to the independent school district or districts in which the "MPCD" is proposed to be located. The applicant shall coordinate with the independent school district(s) in order to address the educational needs that may arise with the development of the "MPCD."

(e) Amendments to "MPCD" Master Site Plan.

(1) Revisions to a previously approved "MPCD" master site plan shall be classified as minor or major changes. An application for a major or minor change to "MPCD" site plan shall be subject to subsection 35-412(c) completeness review provisions of this chapter. Within five (5) working days after filing the proposed revisions, required items and information, the director of planning shall provide a written response indicating whether or not the submitted revised "MPCD" site plan has been accepted as a minor or major revision. If it is determined by the director of planning that the revised submittal is considered a minor change then said submittal shall be processed by the director of planning and shall not require review by the zoning commission or approval by the city council. The applicant may appeal a conditional acceptance by the director of planning using the same process as the initial "MPCD" site plan submittal described in subsection (c) of this section. If it is determined by the director of planning that the proposed revision is a major change then said proposed major revisions shall be processed in the same manner as the initial "MPCD" site plan submittal described in subsection (c) of this section.

(2) A major amendment to an "MPCD" site plan shall include:

- A. Any increase in the total number of residential units for the entire "MPCD".
- B. Any increase in the total commercial acreage within the "MPCD".
- C. Any increase in the total industrial acreage within the "MPCD".
- D. Any increase in the cumulative traffic impacts of the entire "MPCD" upon outlying transportation infrastructure.
- E. Any increase in the total sewer capacity required for the "MPCD" as

measured in equivalent dwelling units.

F. Any increase in the total water capacity required for the "MPCD" as measured in equivalent dwelling units.

G. Any decrease above ten (10) percent in the total open space acreage within the "MPCD".

H. Any decrease in perimeter buffers between the "MPCD" and adjacent properties.

I. Any change in a proposed land use node from residential to an office, commercial or light industrial use, if the property where the proposed change is to occur abuts existing property in which the principal use is a single-family residence.

(3) Any other revision to an "MPCD" site plan not described in subsection (2), above, shall be deemed a minor change.

(f) Height and Yard Requirements.

(1) Height Limitation. The maximum height of structures shall be thirty-five (35) feet; however, any portion of a structure may exceed this limit provided such portion is set back from the side and rear lot lines, or setbacks if required, one (1) foot for each two (2) feet of height in excess of the thirty-five (35) feet. Distance credit shall be permitted for space occupied by structures of conforming height extending from the lot lines or setbacks as applicable.

(2) Minimum Yard. Single-family lots shall comply with the lot requirements of the zoning base district that requires a minimum lot square footage that is less than or equal to the lot square footage shown on the "MPCD" site plan. Multi-family, office and commercial shall comply with the setback requirements of the International Building Code.

(3) Fences. Along collector and arterial streets, fences within an "MPCD" may extend to a height of eight (8) feet subject to the clear vision area requirements of subsection 35-505(f) of this chapter.

(g) Required Natural Buffer. Unless the perimeter of the "MPCD" is bound by a street or roadway, any property located on the boundary of the "MPCD" shall maintain a twenty-foot natural buffer (trees, grass or other vegetation) when:

- The "MPCD" property, used (or proposed for use) for other than single-family purposes, abuts property outside the "MPCD" that is used (or is vacant and zoned) for single-family purposes; or
- The "MPCD" property, used (or proposed for use) for single-family purposes, abuts property outside the "MPCD" that is used (or is vacant and zoned) for other than single-family purposes.

(h) Infrastructure Requirements.

(1) Streets and Sidewalks.

A. Streets within an "MPCD" may be public or private.

B. The entrance to private streets may provide control access by gates or other means permitted by this chapter (see subsection 35-505(s)).

C. Alternative street and sidewalk standards may be applied within an "MPCD." In order to be applicable to a particular "MPCD" the alternative street and sidewalk standards must be submitted as part of the "MPCD" site plan and the site plan must be approved by the city council. For

purposes of this subsection, an "alternative street and sidewalk standard" means a standard which varies from the requirements of subsection 35-505(d) of this chapter.

D. Whether public or private, streets and sidewalks shall conform to the transportation standards of this chapter, as applicable to streets, or alternative street and sidewalk standards approved as part of an "MPCD" site plan.

(2) Utilities. All utility systems shall comply with the utilities standards (section 35-506) of this chapter.

(3) Easements. Publicly owned and/or maintained utilities shall be placed in public streets or easements which are a minimum of sixteen (16) feet in width unless a narrower width is approved by the applicable utility. Dead-end easements shall not be permitted unless a city approved vehicular turnaround is provided at the end of each such easement.

(i) Open Space. Each "MPDC" plan shall provide for a minimum amount of parks/open space as required by subsection (1) below. Open space shall include yards, as well as any parks or open space areas which conform to the parks/open space standards of this chapter. Up to twenty (20) percent of the total open space requirement may be met by including one-half (1/2) of any accessible and contiguous parkland, unimproved floodplain, cemetery, or other beneficial open area which has a reasonable expectancy of perpetuity,

(1) Open Space Percentages. The minimum open space percentage requirements are as indicated in the table below. They are calculated by dividing the total open space within a PUD by the gross site area. The land use category shall be determined by the base zoning district. For PUDs which include both residential and nonresidential uses, the required open space shall be calculated by multiplying the open space percentage times the area of each use and adding the products thus obtained.

TABLE INSET:

Land Use Category	Required Open Space (in percent)
Residential	35%
Nonresidential	20%

(2) Reduction in Open Space. At its discretion, the planning commission may approve a decrease in the amount of required open space when the "MPCD" plan includes unique design features or amenities which achieve an especially attractive and desirable development such as, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features, or landscape sculpture (areas which are intensely landscaped).

(j) Parking Requirements. Off-street parking and truck loading facilities shall be provided in accordance with parking standards of this chapter.

(k) Compatibility Standards.

(1) Applicability. This section applies to any use within an "MPCD" which abuts property on which a single-family residential use is located. In this section, a "single-family residential use" includes any single-family dwelling, duplex, triplex, fourplex, townhome, or residential condominium. The abutting property on which a "single-family residential use" which is established, or is to be used, as evidenced by notation on the "MPCD" site plan, is referred to in this subsection (k)

as a "single-family area."

(2) Height Limitations. A structure subject to subsection (k)(1) of this section:

A. Shall be located at least twenty-five (25) feet from a single-family area;

B. Shall not exceed two (2) stories or thirty (30) feet in height if the structure is fifty (50) feet or less from a single-family area;

C. May exceed two (2) stories or thirty (30) feet in height, but shall not exceed three (3) stories or forty (40) feet in height, if the structure is one hundred (100) feet or less from a single-family area.

(3) Increase in Height Limitations. The height of a structure subject to subsection (k)(1) of this section may increase by:

A. One (1) foot for each feet of distance from property that triggers the compatibility standards if the structure is at least one hundred (100) feet but not more than three hundred (300) feet from an abutting tract which is used or is to be used, as evidenced by a notation on the "MPCD" site plan, for single-family residential purposes, and the increased height is permitted by in an "MPCD"; or

B. One (1) foot for each four (4) feet of distance from property that triggers the compatibility standards if the structure is at least three hundred (300) feet, but not more than five hundred forty (540) feet, from property in an abutting tract which is being used or is to be used, as evidence by notation on the "MPCD" site plan, for single-family residential purposes; and the increased height is permitted by the applicable zoning district regulation.

(4) Scale and Clustering Requirements. The massing of buildings and the appropriate scale relationship of a building to another building may be accomplished by:

- Avoiding the use of a continuous or unbroken wall plane; and
- Using an architectural feature or element that creates a variety of scale relationships, creates the appearance of a residential structure, or is consistent with the exterior form and materials of a structure on an adjoining property; and
- Using similar materials for all buildings within the designated land use category; and
- Using a design technique or element that creates a building scale which does not exceed single-family residential uses within the "MPCD", prevents the construction of a structure in close proximity to a single-family residence zoning district that is significantly more massive than a structure in a single-family residence zoning district; and allows the construction of a structure, including a multi-family structure, that exhibits a scale and massing that is consistent with a single-family residential use.

Except where the "MPCD" site plan specifically provides otherwise, the first block of buildings subject to this subsection must be clustered in a group that is not more than fifty (50) feet wide, as measured along the side of the buildings that are most parallel to the property line of the site. The depth of the first tier of buildings described under subsection (B) may not exceed:

- Two (2) units; or
- Sixty (60) feet.

A building must be at least ten (10) feet apart from another building, as measured from wall face to wall face.

(5) Screening Requirements. Buildings shall be screened from the view of adjacent property single-family land use category if the use for the building to be constructed is intended for off-street parking, the placement of mechanical equipment, storage, refuse collection or any business park use. A person may comply with this subsection by providing a yard, fence, berm, or vegetation. If a fence is provided, the height of the fence may not exceed six (6) feet, except as provided within this chapter. The owner must maintain a fence, berm, or vegetation provided under this section.

(6) Design Regulations.

A. Exterior lighting must be hooded or shielded so that the light source is not directly visible from adjacent property which is being utilized for single-family residential purposes.

B. The noise level of mechanical equipment may not exceed seventy (70) db at the property line.

C. A permanently placed refuse receptacle, including a dumpster, shall not be located within twenty (20) feet of a single-family land use area.

D. A highly reflective surface, including reflective glass and a reflective metal roof with a pitch that exceeds a run of seven (6) to a rise of twelve (12), may not be used, unless the reflective surface is a solar panel or copper or painted metal roof.

E. An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed fifty (50) feet or less from a single-family area.

(l) Business Park Uses Performance Standards. In addition to this section's compatibility standards, set out in subsection (k) immediately above, business park uses shall conform to performance standards as follows:

(1) Air Pollution. All uses within a business park district shall operate in compliance with the most current revision of the regulations of the Texas Air Control Board pertaining to the control of air pollution. The city hereby adopts by reference these regulations, a copy of which is on file in the offices of the city clerk and the planning department.

(2) Noise. All uses shall comply with the provisions of chapter 21, article III of the City Code, Noise, and shall not create a noise nuisance as defined in said article III of chapter 21.

(3) Glare and Heat. No direct or sky-reflected glare so as to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this chapter. There shall be no emission or transmission of heat or heated air so as to be discernible at the boundary of the lot line.

(4) Vibration. All machines shall be so mounted as to minimize vibration and no vibration shall be produced which is discernible without the aid of instruments at the boundary of the business park district.

(5) Noxious Odors. The emission of any odors which are discernible without the aid of instruments shall be prohibited beyond the boundaries of the business park district.

(6) Toxic and Liquid Wastes. The discharge of any toxic or liquid waste material into any outdoor watercourse or drainageway shall be prohibited.

(7) Fire and Explosion. All activities and all storage of flammable and explosive materials shall be provided with adequate safety and fire fighting devices in accordance with the Uniform Fire Code as adopted by the city. The storage of petroleum and other flammable products is permitted only as an incidental use and is prohibited in aboveground tanks.

(8) Radioactivity. No operation shall cause radioactivity at any lot line in violation of the regulations of the Nuclear Regulatory Commission as set forth in Title 10, Chapter 1, Part 20 of the Code of Federal Regulations, and all applicable regulations of the State of Texas.

(9) Electromagnetic Radiation. No operation shall be conducted which shall adversely effect the performance of electromagnetic radiators or receptors other than those of the creator of the radiation.

(10) Outside Storage. Outside storage shall be enclosed within a solid masonry wall or solid heavy timber fence (two (2) inches thick or greater) so as to completely screen all operations conducted within such wall from observation outside the business park district. The wall shall be at least six (6) feet, but not more than twelve (12) feet in height. No storage shall be higher than the height of the screening which shall be maintained in a safe and sightly condition at all times.

(11) Other Structures. Structures other than buildings which are visible from view outside of the business park district shall be screened by plantings, landscaping, and/or a solid wall/fence at least six (6) feet in height.

Upon application for a certificate of occupancy for any use in a business park district, the director of development services may require such evidence as may be necessary to determine whether or not the proposed use will conform to the performance standards set forth above in this section. The director of development services shall provide verification of the proposed use(s) upon request from the director of development services.

(m) Rezoning of Property Within an "MPCD". No property within the boundaries of an "MPCD" may be rezoned unless and until the "MPCD" site plan is amended pursuant to the provisions contained herein. In particular, any such amendment or rezoning application must be justified in terms of impact to utility infrastructure, roadway infrastructure and goals and purposes of the original master planned community.

(n) Development of an "MPCD" Within the city's Extraterritorial Jurisdiction. An "MPCD" may be developed within the city's extraterritorial jurisdiction provided that the "MPCD" is developed pursuant to an approved master site plan as provided in section 35-412 of this chapter and the "MPCD" is designated as such on the master site plan. The permanent zoning of any "MPCD", that is initially located within the extraterritorial jurisdiction and later becomes part of an annexation, shall be consistent with the "MPCD" master plan governing the "MPCD" as provided in section 35-307 of this chapter.

(o) Copy of "MPCD" Shall be Made Available to the Public. The developer or landowner of an approved "MPCD" shall maintain a copy of the "MPCD" site plan within sales office (s) located within the "MPCD". The site plan shall be displayed in a prominent location within the office so that it is easily viewable by the public. In addition copies of the site plan shall be made available to members of the public upon request. This requirement shall continue until all single-family residential property within the "MPCD" is developed.

(p) Rights Granted or Recognized by V.T.C.A. Local Government Code Ch. 245 and Ordinance No. 86715 Shall Benefit an Approved "MPCD".

(1) It is hereby found and determined that V.T.C.A. Local Government Code Ch. 245 and City of San Antonio Ordinance No. 86715, passed and approved September 25, 1997 are applicable to an "MPCD" site plan which complies with this section. An "MPCD" site plan shall enjoy the protection afforded by the aforementioned provisions of state and municipal law any exception in such laws to zoning notwithstanding.

(2) In each instance when an "MPCD" site plan obtains final approval from city council the director of development services shall change the zoning records and maps in accordance with the provisions of the ordinance approving a master plan community.

(3) Thereafter, staff review of subdivision plat applications, building permit applications or other permit applications necessary for the development of the "MPCD" shall be reviewed in context of the "MPCD" site plan. Should there be a conflict between the requirements of the City Code (excluding the city building code) and the particular "MPCD" site plan as to landscaping, buffering, open space or any other matter addressed in the "MPCD" site plans, the "MPCD" site plan shall control.

(Ord. No. 95236 § 1) (Ord. No. 98697 § 1, 4 and 6)

Proposed Amendment to the Unified Development Code
(Chapter 35 of the City Code)

Sec. 35-345. "MPCD" Master Planned Community Districts

- (b) Size. An "MPCD" shall consist of at least ~~one hundred (100)~~twenty-five (25) contiguous acres.

P/C AGENDA FOR FEBRUARY 13, 2008

[illegible]